State Board of Embalmers and Funeral Directors

March 2, 2012
Division of Professional Registration
3605 Missouri Blvd
Jefferson City, MO 65109

Conference Call

OPEN AGENDA

March 2, 2012 – 8:00 a.m.

1. Call to Order

2. Roll Call

3. Approval of Open Agenda

   CLOSED

4. Discussion of HB1770

5. Discussion of HB1769

6. Discussion of SB757

7. Adjournment

Members of the public are welcome to attend the open meeting in person.

For the convenience of those that wish to participate in the conference call for the purpose of hearing the Board's discussion relating to topics of proposed legislation, individuals can call (573)526-5712 or 866-630-9350. This number will be available at approximately 8:20a.m.

SECOND REGULAR SESSION

HOUSE BILL NO. 1770

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (117).

5811L.01I D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 333.325, RSMo, and to enact in lieu thereof one new section relating to the sale of preneed funeral contracts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 333.325, RSMo, is repealed and one new section enacted in lieu
2 thereof, to be known as section 333.325, to read as follows:

333.325. 1. No person shall sell, negotiate, or solicit the sale of preneed contracts for,
2 or on behalf of, a seller unless registered with the board as a preneed agent except for individuals
3 who are licensed as funeral directors under this chapter. The board shall maintain a registry of
4 all preneed agents registered with the board. The registry shall be deemed an open record and
5 made available on the board's website.
6 2. An applicant for a preneed agent registration shall be an individual who shall:
7 (1) File an application on a form established by the board and pay an application fee in
8 an amount established by the board by rule which shall not exceed fifty percent of the application
9 fee established by the board under this chapter for a funeral director license;
10 (2) Be eighteen years of age or older;
11 (3) Be otherwise eligible for registration under section 333.330;
12 (4) Have successfully passed the Missouri law examination as designated by the board;
13 (5) Provide the name and address of each seller for whom the applicant is authorized to
14 sell, negotiate, or solicit the sale of preneed contracts for, or on behalf **of; and**
15 **(6) On and after August 28, 2015, hold a valid Missouri funeral director's license.**
16 **All persons holding a preneed agent registration prior to August 28, 2015, shall continue**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **to hold, renew, and reinstate their registration as set out in this chapter as it existed on**
18 **August 27, 2015.**
19 3. Each preneed agent shall apply to renew his or her registration on or before October
20 thirty-first of each year or a date established by the division of professional registration pursuant
21 to section 324.001. A registration which has not been renewed prior to the renewal date shall
22 expire. Applicants for renewal shall:
23 (1) File an application for renewal on a form established by the board by rule;
24 (2) Pay a renewal fee in an amount established by the board by rule which shall not
25 exceed fifty percent of the application fee established by the board under this chapter for a
26 funeral director license renewal; and
27 (3) Provide the name and address of each seller for whom the preneed agent is authorized
28 to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.
29 4. Any funeral director acting as a preneed agent shall be required to report the name and
30 address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or
31 solicit the sale of preneed contracts as part of their biennial renewal form. Each funeral director
32 preneed agent shall be included on the board's registry.
33 5. Any registration which has not been renewed as provided by this section shall expire
34 and the registrant shall be immediately removed from the preneed agent registry by the board.
35 A registrant who fails to apply for renewal may apply for reinstatement within two years of the
36 renewal date by satisfying the requirements of subsection 3 of this section and paying a
37 delinquent fee as established by the board.

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SECOND REGULAR SESSION

HOUSE BILL NO. 1769

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (117).

5810L.01I D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 333.041, RSMo, and to enact in lieu thereof one new section relating to funeral directors.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 333.041, RSMo, is repealed and one new section enacted in lieu
2 thereof, to be known as section 333.041, to read as follows:

333.041. 1. Each applicant for a license to practice funeral directing shall furnish
2 evidence to establish to the satisfaction of the board that he or she **[**is**]**:

3 (1) **Is** at least eighteen years of age, and possesses a high school diploma, a general
4 equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board; **[**and**]**

5 (2) **Is** a person of good moral character**; and**

6 **(3) After August 27, 2015, has graduated with a degree or a certificate in mortuary**
7 **science or funeral service from an institution accredited by the American Board of Funeral**
8 **Service Education, or any successor organization recognized by the United States**
9 **Department of Education for funeral service education, or has successfully completed a**
10 **course of study in funeral directing offered by a college accredited by a recognized**
11 **national, regional, or state accrediting body which is approved by the state board of**
12 **embalmers and funeral directors. All persons holding a funeral service license as of**
13 **August 27, 2015, shall continue to hold, renew, and reinstate his or her license as set out**
14 **in this chapter as it existed on August 27, 2015**.

15 2. Every person desiring to enter the profession of embalming dead human bodies within
16 the state of Missouri and who is enrolled in a program accredited by the American Board of
17 Funeral Service Education, any successor organization, or other accrediting entity as approved

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

by the board shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.

3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:

(1) Is at least eighteen years of age, and possesses a high school diploma, a general equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board;

(2) Is a person of good moral character;

(3) Has completed a funeral service education program accredited by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board. If an applicant does not complete all requirements for licensure within five years from the date of his or her completion of an accredited program, his or her registration as an apprentice embalmer shall be automatically cancelled. The applicant shall be required to file a new application and pay applicable fees. No previous apprenticeship shall be considered for the new application;

(4) Upon due examination administered by the board, is possessed of a knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative art, together with statutes, rules and regulations governing the care, custody, shelter and disposition of dead human bodies and the transportation thereof or has passed the national board examination of the Conference of Funeral Service Examining Boards. If any applicant fails to pass the state examination, he or she may retake the examination at the next regular examination meeting. The applicant shall notify the board office of his or her desire to retake the examination at least thirty days prior to the date of the examination. Each time the examination is retaken, the applicant shall pay a new examination fee in an amount established by the board;

(5) Has been employed full time in funeral service in a licensed funeral establishment and has personally embalmed at least twenty-five dead human bodies under the personal supervision of an embalmer who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in

54 the remaining six months of the apprenticeship period. All transcripts and other records filed
55 with the board shall become a part of the board files.
56 4. If the applicant does not complete the application process within the five years after
57 his or her completion of an approved program, then he or she must file a new application and no
58 fees paid previously shall apply toward the license fee.
59 5. Examinations required by this section and section 333.042 shall be held at least twice
60 a year at times and places fixed by the board. The board shall by rule and regulation prescribe
61 the standard for successful completion of the examinations.
62 6. Upon establishment of his or her qualifications as specified by this section or section
63 333.042, the board shall issue to the applicant a license to practice funeral directing or
64 embalming, as the case may require, and shall register the applicant as a duly licensed funeral
65 director or a duly licensed embalmer. Any person having the qualifications required by this
66 section and section 333.042 may be granted both a license to practice funeral directing and to
67 practice embalming.
68 7. The board shall, upon request, waive any requirement of this chapter and issue a
69 temporary funeral director's license, valid for six months, to the surviving spouse or next of kin
70 or the personal representative of a licensed funeral director, or to the spouse, next of kin,
71 employee or conservator of a licensed funeral director disabled because of sickness, mental
72 incapacity or injury.

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SECOND REGULAR SESSION

SENATE BILL NO. 757

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 7, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5602S.01I

AN ACT

To repeal section 333.042, RSMo, and to enact in lieu thereof one new section relating to limited licenses for funeral directing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 333.042, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 333.042, to read as follows:

333.042. 1. Every person desiring to enter the profession of funeral
2 directing in this state shall make application with the state board of embalmers
3 and funeral directors and pay the current application and examination
4 fees. Except as otherwise provided in section 41.950, applicants not entitled to
5 a license pursuant to section 333.051 shall serve an apprenticeship for at least
6 twelve consecutive months in a funeral establishment licensed for the care and
7 preparation for burial and transportation of the human dead in this state or in
8 another state which has established standards for admission to practice funeral
9 directing equal to, or more stringent than, the requirements for admission to
10 practice funeral directing in this state. The applicant shall devote at least fifteen
11 hours per week to his or her duties as an apprentice under the supervision of a
12 Missouri licensed funeral director. Such applicant shall submit proof to the
13 board, on forms provided by the board, that the applicant has arranged and
14 conducted ten funeral services during the applicant's apprenticeship under the
15 supervision of a Missouri licensed funeral director. Upon completion of the
16 apprenticeship, the applicant shall appear before the board to be tested on the
17 applicant's legal and practical knowledge of funeral directing, funeral home
18 licensing, preneed funeral contracts and the care, custody, shelter, disposition and
19 transportation of dead human bodies. Upon acceptance of the application and
20 fees by the board, an applicant shall have twenty-four months to successfully

21 complete the requirements for licensure found in this section or the application
22 for licensure shall be cancelled.

23 2. If a person applies for a limited license to work only in a funeral
24 establishment which is licensed only for cremation, including transportation of
25 dead human bodies to and from the funeral establishment, he or she shall make
26 application, pay the current application and examination fee and successfully
27 complete the Missouri law examination. He or she shall be exempt from the
28 twelve-month apprenticeship required by subsection 1 of this section and the
29 practical examination before the board. If a person has a limited license issued
30 pursuant to this subsection, he or she may obtain a full funeral director's license
31 if he or she fulfills the apprenticeship and successfully completes the funeral
32 director practical examination. **As of August 28, 2013, no further limited**
33 **licenses shall be issued. All persons holding a limited license shall be**
34 **able to hold, renew, and reinstate as set out in this chapter as it existed**
35 **on August 27, 2013.**

36 3. If an individual is a Missouri licensed embalmer or has completed a
37 program accredited by the American Board of Funeral Service Education, any
38 successor organization, or other accrediting entity as approved by the board or
39 has successfully completed a course of study in funeral directing offered by an
40 institution accredited by a recognized national, regional or state accrediting body
41 and approved by the state board of embalmers and funeral directors, and desires
42 to enter the profession of funeral directing in this state, the individual shall
43 comply with all the requirements for licensure as a funeral director pursuant to
44 subsection 1 of section 333.041 and subsection 1 of this section; however, the
45 individual is exempt from the twelve-month apprenticeship required by
46 subsection 1 of this section.

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February 21, 2012

Sandy Sebastian
State Board of Funeral Directors and Embalmers
P.O. Box 423
Jefferson City, Missouri 65102

Re: section 333.042.2 limited license holders

Dear Ms. Sebastian:

I represent the Associated Cemeteries of Missouri. A proposal has been made, in Senate Bill 757, to eliminate the limited license authorized in section 333.042.2 of the Missouri statutes governing funeral directors and embalmers.

This proposal perhaps serves to raise a question as to how this statute is presently interpreted and applied, and it is an important question, as there are a number of limited licenses outstanding, and there has been a significant increase in the number granted in recent years. The increase in applications may well be associated with the increase in the number of cremations occurring in the state.

We have a couple of member cemeteries which operate crematories, and do it under the license and regulation of the State Board as funeral establishment licensed only to do this, and no other funeral services. We also believe there are small businesses, perhaps vault companies in rural areas of the state or just free standing crematories, which also operate crematories in this fashion.

The question posed is, must these establishments be under the management and control of a fully licensed funeral director to qualify as funeral establishments licensed only to perform cremations and transport bodies to and from the establishment, or may they qualify as a limited license establishment if they are under the management and supervision of a person holding only a limited license under 333.042.2?

We believe there is general agreement that no particular license is required by anyone to physically operate a retort or transport a body. What is needed is simply the supervision and management of a person holding a license issued by the State Board.

We would guess then that the proponents of Senate Bill 757 say that the limited license may be eliminated, because it serves no purpose under the statute. If the

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management and supervision of a fully licensed funeral director is necessary to qualify a funeral establishment for a limited license to only perform cremations and related transportation of bodies, they would be correct. The limited license would be meaningless. If this is the case, the question arises why the State Board is issuing limited licenses, since it would appear that they would only be applied for and used to operate a Function B establishment. There does not appear to be any other reason to apply for or hold the limited license.

The opposing view would be that section 333.042.2 defines two terms in the law, and creates or carves out two entities; an individual holding a limited license to work only in an establishment that only performs cremations and attendant transportation of bodies, and an establishment that is limited by the terms of its license to those activities. Under this interpretation, the limited license would fulfill the requirement that the establishment be under the management and supervision of a person holding a "license issued by the Board". If any meaning or purpose is to be found in this statutory language, that would have to be it.

We think the second interpretation is the more reasonable, and also makes more practical sense. As more people have been choosing cremation, it makes sense that smaller funeral directors may arrange to have this service performed by an independent contractor rather than having to invest in a crematory themselves. They will not want that independent contractor to be a competitor, who may price the cremation independently, or as part of a complete funeral package as he may please. And in smaller scale operations, it may be more efficient to let it be done by an independent crematory licensed only to perform this service, for several funeral homes, rather than each owning and operating a crematory of their own.

If an independent crematory seeks to perform any additional funeral services, it is in violation of the provisions of chapter 333, and its customer may be expected to call its attention to this fact, as well as to inform the State Board.

As long as the funeral establishment in question is licensed only to do cremations, what need is there of the additional licensing requirements of a full license? Why should a licensee have to satisfy the Board that he has performed elaborate funeral arrangements, in order to manage and operate an establishment in which, by the terms of its license, none of these things may be done?

It is an unnecessary and undue expense to impose such licensing requirements upon such a business, and it creates a particular burden in business succession planning. Given the time it takes to acquire a full funeral directing license, and the limited time period following the death of a supervising funeral director during which a personal representative may hold a temporary license, it may prove difficult or impossible to continue a cremation service business after the death of the operator.

We are not aware of any problems associated with limited license holders who comply with the law. We believe the correct and reasonable interpretation of chapter

333, as well as the interpretation consistent with the practice if issuing limited licenses, is to recognize limited license holders operating establishments expressly limited to doing the things a limited license holder may do. If this is the correct interpretation of the law, then Senate Bill 757 is a bad idea. If this is not the correct interpretation, then a better proposal would be to conform the law to what is probably the current practice of limited license holders, by moving or adding the definitions in 333.042.2 to the definition section of the law. A crematory operating under the management of a person who has satisfied the requirements of 333.042.2 is operating a perfectly useful and legitimate business.

Very truly yours,

Davis Biggs, Jr.

DBJr/dbj

cc. Connie Clarkston, ACM board members

P.S. We see that legislation has been proposed to combine the requirements of a funeral director license and an embalmer license into one 'dual' license. The operator of a crematory will now have to have a degree in mortuary science? What is the agenda here?