

## State Board of Embalmers and Funeral Directors

April 24-25, 2012  
Division of Professional Registration  
3605 Missouri Blvd  
Jefferson City, MO 65109

### OPEN AGENDA

#### April 24, 2012 – 8:30 am

1. Call to Order
2. Roll Call
3. (Tab 1) Approval of the Agenda
4. (Tab 2) Approval of Open Minutes
  - December 7, 2011 board meeting
  - December 27, 2011 board conference call
  - January 25, 2012 board meeting
  - February 8, 2012 examination committee call
  - March 2, 2012 board conference call
  - March 5, 2012 examination committee call
  - March 28, 2012 board conference call
  - April 4, 2012 examination committee call
  - April 9, 2012 examination committee call
  - April 11, 2012 board conference call
5. (Tab 3) Executive Director Report
  - *Update on “The Conference” conference*
  - *Expense account payment deadlines*
  - *License statistics (new, closed/ceased, disciplined)*
  - *Senate Bill 875*
6. Legal Counsel Report
7. 436 Task Force Update
8. Introduction of Craig Ward, State Registrar, Bureau of Vital Statistics
  - Update regarding electronic death certificate system*

#### CLOSED

9. Discussion regarding final expense insurance policies
  - Mark Stahlhuth – Department of Insurance, Financial Institutions & Professional Registration*
10. (Tab 4) Discussion regarding \$36 fee for preneed contracts entered into when qualifying for state assistance
  - Submitted by Darlene Russell for review/consideration by Board*
11. (Tab 7) Discussion on proposed rule: “Abandoned Preneed Funds”
  - Comments submitted by Don Otto for review/consideration by Board*
12. Ceased/closed seller licenses – notifications

13. (Tab 6) Inspection of funeral establishment updates/statistics

14. (Tab 5) Legislative Proposals for future sessions  
    Previous proposed language  
    Embalmer oral examination discussion

15.       Discussion/Dialogue

LUNCH

CLOSED

16.       Adjournment

## State Board of Embalmers and Funeral Directors

December 7, 2011  
Hampton Inn & Suites  
4600 Summit  
Kansas City, MO 64112

### OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 9:08 a.m.

#### Roll Call

##### **Board Members Present**

D. Todd Mahn, Chair  
James Reinhard, Vice Chair  
John McCulloch, Secretary  
Gary Fraker, Member  
Martin Vernon, Member  
Archie Camden, Public Member

##### **Staff Present**

Sandy Sebastian, Executive Director  
Lori Hayes, Inspector  
Tabatha Lenzini, Administrative Assistant  
Sharon Euler, Division Legal Counsel

##### **Approval of Open Agenda**

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

##### **Approval of Open Minutes**

A motion was made by Martin Vernon and seconded by Gary Fraker to approve the following open minutes with the amendment to include clarification the of the legal citations:

- June 14-16, 2010 Board Meeting
- May 18, 2011 Board Meeting
- September 27-29, 2011 Board Meeting
- October 3, 2011 Examination Committee
- October 6, 2011 Mail Ballot
- November 4, 2011 Conference Call
- November 21, 2011 Examination Committee

Motion carried with James Reinhard, John McCulloch, and Archie Camden voting in favor. Archie Camden recused from voting on the June 14-16, 2010, May 18, 2011 and November 4, 2011 minutes.

## **Executive Director Report**

Sandy Sebastian gave an overview on the following –

- Update on Preneed Renewals
- Update on Funeral Establishment Renewals
- New licensees issued since last report
- Ceased/closed licenses since last report
- Disciplinary actions since last report
- Gov Delivery email notification system purchased by the Department
- New licensure system being considered by Division

## **Licensure System**

Following discussion a motion was made by James Reinhard and seconded by Gary Fraker to approve the estimated \$26,000 expenditure, which is over a 2 year period and already budgeted in projections as IT, for the board's proportionate share of the new licensure system being considered by the Division of Professional Registration and the boards/commissions within. Motion carried with Martin Vernon, John McCulloch, Archie Camden voting in favor with no votes in opposition.

## **Legal Counsel Report**

Sharon Euler reported the following to the board –

- Donna Garret retired and Joann Howard has replaced her as Special Deputy Receiver
- Forever Network's civil suite is moving slowly, the criminal is proceeding also, they hope to have a trial date set after the first of the year
- Buescher matter has been set for status hearing

## **Electronic Death Certificate System - DHSS**

John McCulloch gave an update on the meeting that he and Sandy Sebastian attended with Harold Kirby and Peter Lyskowski who are with the Department of Health and Senior Services (DHSS) regarding the electronic death certificate system. DHSS expressed interest in hearing feedback about concerns with the system, indicated that they had identified approximately 2,000 doctors that would be consistent users of the system and were working on training them as well as others. They shared that they were preparing an online training so that information could be far reaching. They also discussed the paper process that would still be in place and the modifications that would be implemented to ensure accuracy of records and how that might impact turn around time in obtaining certified death certificates.

## **Web Casting**

At a previous meeting the board asked that staff research the possibilities of web casting the board's meetings. Sandy Sebastian gave an update indicating that we have the capability to do web casting in house at no fee which could include audio/video, audio only, could be broadcast live or delayed. It was also shared that there are subscription services we could be explored that would open up other options such as interactive communication between those participating via the web. Chairman D. Todd Mahn stated this was not something the board was going to pursue at this time.

## **Alkaline Hydrolysis Presentation**

Dean Fisher, Director of the David Geffen School of Medicine at UCLA, Donated Body Program gave a presentation on Alkaline Hydrolysis.

**Closed session**

A motion was made by Archie Camden and seconded by Gary Fraker to go in to closed for #2. Motion carried with Martin Vernon, James Reinhard, and John McCulloch voting in favor with no votes in opposition. D. Todd Mahn not present for the vote and Jim Reinhard was serving as chair of the meeting during the motion and vote.

**Draft Rule – “What Constitutes A Preneed Contract”**

The board reviewed and discussed the draft rule “What constitutes a preneed contract”. Sharon Euler shared some examples of concerns the financial examiners are experiencing when conducting financial examinations. Following the board’s discussion there were comments and input from the members of the public in attendance.

A motion was made by Archie Camden and seconded by John McCulloch to end the discussion on the topic. Motion carried with Gary Fraker, Martin Vernon and James Reinhard voting in favor with no votes in opposition.

A motion was made by John McCulloch to not pursue the rule. Motion died for lack of a second.

A motion was made by Archie Camden to accept the draft. Motion died for lack of a second.

A motion was made by Martin Vernon and seconded by James Reinhard voted to send back to staff to do further work on what constitutes a preneed contract. Motion carried with John McCulloch, D Todd Mahn voting in favor. Gary Fraker and Archie Camden voted in opposition of the motion.

**Public Comments Regarding Financial Examinations**

Don Otto, MFDEA, commented for John Cozean, who was not present, on his financial examination regarding the concerns that the letter received identified contracts as non compliant that were correct under the old law.

Kevin Simpson, president of Phillips Funeral Home, spoke on the examination that was done regarding his seller in which he was told he was deficient on 44 contracts relating to insurance assignments. Sandy Sebastian spoke to Mr. Simpson in general terms about what he might want to do and explained that sellers are being sent copies of the final examinations and being provided an opportunity to respond, which may include that they disagree with the findings and suggested that if there was disagreement that any supporting documentation regarding how the conclusion was drawn be included with the response.

Brad Speaks stated he is on week 16 of his examinations.

**Closed session**

A motion was made by Gary Fraker and seconded by John McCulloch to move to closed session for #1, 2, 7, 8, 9. Motion carried with Jim Reinhard, Martin Vernon and Archie Camden voting in favor.

**Adjournment**

A motion was made by Jim Reinhard and seconded by John McCulloch to adjourn the meeting. Motion carried with Gary Fraker, Martin Vernon and Archie Camden voting in favor with no votes in opposition 5:00 p.m.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

### 1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

### 2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

### 3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

### 4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

### 5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

### 6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

### 7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

### 8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

### 9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors**

**December 27, 2011  
Division of Professional Registration  
3605 Missouri Blvd  
Jefferson City, MO 65109**

**Open minutes**

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 9:15 a.m.

**Roll call**

**Board Members Present**

Todd Mahn, Chairman  
James Reinhard, Vice Chairman  
John McCulloch, Secretary  
Gary Fraker, member  
Martin Vernon, member  
Archie Camden, public member

**Staff Present**

Sandy Sebastian, Executive Director  
Lisa Wildhaber, Examiner Supervisor  
Tabatha Lenzini, Administrative Assistant – Left meeting at 9:20 a.m.  
Sharon Euler, Division Legal Counsel

**Approval of Open Agenda**

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

**Executive Director Report**

Nothing to report

**Legal Counsel Report**

Nothing to report

**Discussion/Open Dialogue**

D. Todd Mahn reported he attended the Association District Christmas dinner meeting and the board was praised for allowing the public to give input before finalizing the draft rule.

There was discussion on insurance funded preneed/annuities. Archie Camden stated he would like to wait and see a proposed draft rule and have opportunity to review such at the January, 2012 meeting.

**Motion to Close**

A motion was made by Martin Vernon and seconded by Gary Fraker to move to closed session for #1, #2, and #9.

**Adjournment**

A motion was made by Archie Camden and seconded by Martin Vernon to adjourn the meeting at 10:00 a.m. Motion carried with Gary Fraker, James Reinhard, and John McCulloch voting in favor with no votes in opposition.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline
2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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
3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency
4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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
5. EXAMINATION MATERIALS  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials
6. EMPLOYEE PERFORMANCE RATINGS  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees
7. APPLICATIONS  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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
8. CLOSED MINUTES  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings
9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS  
I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

## State Board of Embalmers and Funeral Directors

January 25, 2012  
Division of Professional Registration  
3605 Missouri Blvd  
Jefferson City, MO 65109

### OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 8:35 a.m.

#### **Roll Call**

##### **Board Members Present**

D. Todd Mahn, Chair  
James Reinhard, Vice Chair  
John McCulloch, Secretary  
Gary Fraker, Member  
Archie Camden, Public Member

##### **Board Members Not Present**

Martin Vernon, Member

##### **Staff Present**

Sandy Sebastian, Executive Director  
Lori Hayes, Inspector  
Tabatha Lenzini, Administrative Office Support  
Sharon Euler, Division Legal Counsel

##### **Approval of Open Agenda**

A motion was made by James Reinhard and seconded by Archie Camden to approve the agenda. Motion carried with Gary Fraker and John McCulloch voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

##### **Executive Director Report**

Sandy Sebastian gave an overview on the financial examination process.

##### **Legal Counsel Report**

Sharon Euler reported that the Buescher case pending in Cole County Circuit Court has a status conference set. Sharon reported that there was no new news relating to NPS.

Don Otto reported that the NPS receivership has determined that if a funeral home got money out of the orphan contract escrow account, they are sending out 1099's to the funeral home and reporting that as income to the funeral home and your getting a 1099 if you're not a corporation; a partnership or a sole proprietor.

##### **Approval of Open Minutes**

A motion was made by Gary Fraker and seconded by Archie Camden to approve the following Open Examination Committee Minutes:

- December 7, 2011 Examination Committee
- December 13, 2011 Examination Committee
- December 22, 2011 Examination Committee
- January 6, 2012 Examination Committee
- January 13, 2012 Examination Committee

Motion carried with James Reinhard and John McCulloch voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

### **Motion to Close**

Motion made by Gary Fraker and seconded by John McCulloch to go into closed for #2. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

### **Proposed Rules**

#### **Insurance Funded Preneed Contracts**

#### **Amendment to Annual Reporting Requirements**

The draft rules were reviewed and discussed among the board members and also with the public in attendance at the meeting.

#### **Proposed Rule: Insurance Funded Preneed Contracts**

1. An insurance funded preneed contract is a preneed contract to be funded by payments or proceeds from an insurance policy or from a deferred annuity contract that is not classified as a variable annuity and has death benefit proceeds that are never less than the sum of premiums paid. (*§436.405(3), RSMo.*)

2. Any preneed contract, as defined in Chapters 333 and 436, RSMo, that is funded by payments or proceeds from any life insurance policy or annuity must comply with the provisions of Chapters 333 and 436, RSMo, and accompanying regulations regardless of when or from whom the policy was purchased or whether the seller received any form of commission or compensation from any source when the preneed contract is formed. (*§436.405 and §436.450, RSMo.*)

3. An insurance funded preneed contract is sold when the seller agrees to act as a seller for an insurance funded preneed contract, as defined in the statutes. (*§436.405(3), RSMo.*)

4. Any person agreeing to act as a seller for an insurance funded preneed contract must be licensed as a seller. (*§333.320.1 and §436.415.2, RSMo.*)

5. A person or entity engages in the practice of being a seller and must hold a seller license if the person or entity is named as the owner (under prior law) or beneficiary of an insurance policy or annuity, if the ownership, assignment or being named as beneficiary of the insurance policy or annuity occurred after August 13, 1982, and there is an agreement between the seller and the consumer that the proceeds of any insurance policy or annuity are to be used to pay for final disposition. (*§333.320.1 and §436.415.2, RSMo.*)

6. For each preneed contract funded by any insurance policy or annuity, the seller shall maintain in the file, in addition to the other records required by law, a copy of the insurance policy or annuity contract and evidence of the assignment or being named beneficiary. (*§436.465, RSMo.*)

7. No preneed contract, as defined in the statutes, is formed if there is no agreement between the purchaser and the seller for any final disposition arrangements and no payment is made or promised to be made (other than pursuant to an at-need contract) for the goods and services to be provided at death. (*§436.405(7), RSMo.*)

8. No preneed contract is formed by the act of a licensed insurance producer selling any life insurance product at the location of the seller unless there is also a preneed contract or other arrangement in which the seller agrees to act as a seller under the provisions of chapters 333 and 436, RSMo, and accompanying regulations. (*§436.450.5, RSMo.*)

D. Todd Mahn turned the chair over to James Reinhard, vice chairman, so that he could speak to the rule as a funeral director. Following his comments he returned to chair the meeting.

A motion was made by John McCulloch and seconded by Gary Fraker made the motion to not pursue the rule. James Reinhard and Archie Camden voted in opposition of the motion. Motion carried with D. Todd Mahn voting in favor to break the tie. Martin Vernon not present for the meeting.

### **Proposed Rule: Amendment to the annual reporting rule**

1. For the seller annual report, if the seller is unable to validate the status and face value of the insurance policy and unable to obtain the certification from the insurance company, the following information shall meet the requirements of Section 436.460.4 for the reporting requirements for insurance funded preneed contracts.
  - a. The name and address of the company issuing the policy or annuity funding the preneed;
  - b. The amount of the policy or balance on account at the time the preneed contract was sold; and
  - c. An attestation from the seller that since these accounts are funded by being insurance or annuity beneficiary or assignment, the seller has no ability to confirm the existence or amount of the policies or accounts.

A motion was made by John McCulloch and seconded by Gary Fraker to approve draft rule as proposed. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

### **Fee Rule Discussion Regarding Per Contract Annual Reporting**

Chairman recommendation is staff to go back and look at the fee rule and see if it is possible to charge separate fees for different contracts reported on the annual reports. Archie Camden stated he would like to see what hardship it will cause on staff and auditing staff to have different reporting fees for contracts. D. Todd Mahn said we are not here to protect the staff or how much money we can make in this office that the board was here to protect the public and I want to remember that.

### **Upcoming March Board Meeting Date/Location**

The Board discussed the possibility of having the meeting in St. Louis at the end of March. Sandy indicated that the office would explore the options and anticipated we would need to look at 2 hotel bids in the downtown area and one outside downtown. The Board asked that they look for a location south.

### **Web Casting**

Ken McGhee brought up the topic of web casting and shared that he would really like to see the board utilize the Division's Main Conference Room video capability.

### **MFDEA Legislative Day**

Don Otto legislative day at the capitol February 28<sup>th</sup>.

### **Shelby Funeral Homes Inc. - Case 12-004-PV – Probation Violation Hearing**

A motion was made by Gary Fraker and seconded by John McCulloch to ratify the chair recommendation for the request for continuance received from Shelby Funeral Home. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

### **Motion to Close**

A motion was made by John McCulloch and seconded by Gary Fraker pursuant to #1, #2, #8 and #9 to go in to closed session. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

**George Treaster dba White Funeral Home - Case 12-005-PV – Probation Violation Hearing**

George Treaster asked attorney Sharon Euler if he could have a Settlement negotiation in closed session. A motion was made by Gary Fraker and seconded by Archie Camden to continue the hearing. Motion carried with Gary Fraker, James Reinhard, John McCulloch, Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

A motion was made by Gary and seconded by John McCulloch to go in to closed for #1, #2 and #9. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

**Financial Examination Committee Process**

John McCulloch asked for further clarification of wants guidelines for what the exam committee can do and the process that is followed. Sandy shared that once the examination report is completed the staff sends a letter of the findings of the audit to the seller and requests a response within 30 days; the committee reviews the examination and the response and if everything is resolved the committee closes the examination and the seller is notified of such. If the committee has concerns or are there are matters that require the attention of the full board the committee refers it to the board and may include a recommendation

Following that discussion Archie Camden asked what the status of the examination committee was and if it could proceed to operate. Chairman D. Todd Mahn recommends the exam committee to resume functioning.

**Motion to Close**

A motion was made by Gary Fraker and seconded by John McCulloch the meeting to close for #2. Motion carried with James Reinhard and Archie Camden voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

**Proposed Rule: Abandoned Pneed Funds**

Motion made by Gary Fraker and seconded by Archie Camden to bring the proposed rule to the next board meeting for discussion. Motion carried with James Reinhard and John McCulloch voting in favor with no votes in opposition. Martin Vernon not present for the meeting.

**Motion to Close**

A motion was made by James Reinhard and seconded by Archie Camden to into closed session for #6. Motion carried with John McCulloch and Gary Fraker voting in favor with no votes in opposition.

**Adjournment**

Motion was made by Archie Camden and seconded by John McCulloch to adjourn at 3:35pm. Motion carried with no votes in opposition.

Executive Director: \_\_\_\_\_

Approved by the Board on: \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors  
Examination Committee  
Conference Call**

**February 8, 2012  
8:00 a.m.**

**State Board of Embalmers and Funeral Directors  
Missouri Conference Room  
3605 Missouri Boulevard  
Jefferson City, MO 65109**

**Open Minutes**

The meeting of the State Board of Embalmers and Funeral Directors Examination Committee was called to order by James Reinhard, Committee Chair, at 8:03 a.m.

**Roll Call**

**Board Members Present**

James Reinhard, Committee Chair  
Archie Camden, Member

**Staff Present**

Sandy Sebastian, Executive Director  
Lisa Wildhaber, Examiner Supervisor  
Sharon Euler, Division Legal Counsel  
Tabatha Lenzini, Administrative Assistant

**Approval of Open Agenda**

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda. Motion carried.

**Executive Director Report**

Nothing to report

**Legal Counsel Report**

Nothing to report

**Closed Meeting-Review of Financial Examinations**

A motion was made by Archie Camden and seconded by James Reinhard to move into closed session under Section 610.021 Subsection (14) and 620.010.14 Subsection (7)RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant. Motion carried.

**Adjournment**

A motion was made by Archie Camden and seconded by James Reinhard to adjourn the examination committee meeting at 9:30 a.m.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## **State Board of Embalmers and Funeral Directors**

**March 2, 2012  
Division of Professional Registration  
Main Conference Room  
3605 Missouri Blvd  
Jefferson City, MO 65109**

**Conference Call**

**OPEN MINUTES**

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 8:00a.m.

### **Roll call**

#### **Board Members Present**

Todd Mahn, Chairman  
James Reinhard, Vice Chairman  
John McCulloch, Secretary  
Gary Fraker, Board Member  
Martin Vernon, Board Member  
Archie Camden, Board Member

#### **Staff Present**

Sandy Sebastian, Executive Director  
Tabatha Lenzini, Administrative Assistant  
Lori Hayes, Inspector  
Sharon Euler, Division Legal Counsel  
Connie Clarkston, Division, Director of Budget and Legislative

#### **Approval of the Agenda**

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

#### **Motion to Close**

A motion was made by Gary Fraker and seconded by John McCulloch to go in to closed for #2. Motion carried with James Reinhard, John McCulloch and Archie Camden voting in favor with no votes in opposition.

#### **HB1770 – Requiring preneed agents to be licensed funeral directors**

Don Otto was asked to go over the highlights of the proposed bills and why the association is in favor of the legislation. There was discussion among the board and then public comments were heard. Don stated that the language did not represent the majority of the association membership.

Following discussion Archie Camden asked Chairman Mahn if the board could vote on each bill as they are reviewed to see what the boards stance is on each one presented prior to going to the next bill and stated that would be his preference. Chairman Mahn stated he would hold votes following discussion on all of the proposed legislation being discussed.

### **HB1769 – Requiring all funeral director applicants to have post secondary education**

Sandy shared that she and Don Otto had discussed the terminology relating to the accredited institution identifying that it was similar to previous language but different than language that was passed during the previous legislative session changing the terminology to accredited programs to be consistent with the accreditation process as the programs must be accredited by the ABFSE however the institution itself may not be accredited by that body. Don Otto was asked to give an overview of the bills intent. Don stated that the bill intends that individuals would need to have education in order to become a funeral director. Sandy asked if it was the bills intent to do away with apprenticeships as a requirement of licensure. Don stated it was not the intent of the bill to do away with apprenticeships but to have education and serve as apprenticeship as a process for licensure. Sandy shared that if that is the intent then 333.042.3 may need reviewed because it appears that may contradict the intent of the language. There was discussion among the board and then public comments were heard. Don Otto stated that the bill was filed to generate conversation and he did not anticipate it would be successful at moving forward this session and may take up to three years for it to make its way through the legislative process.

### **SB757 – Elimination of Limited Funeral Director Licenses**

Don Otto was asked to give an overview of this proposed language. Don stated that it was originally filed because it was not believed that limited funeral director licenses were used for anything however based on the conversations that have taken place after the language was filed he is asking the bill sponsor, Senator Wasson, to pull the bill. Don stated that Sandy had shared with the Senator that limited funeral directors could not serve as funeral director in charge of a crematory/function B. Sandy stated that she had visited with Senator Wasson regarding the definitions in the regulations and had gotten some additional information to him regarding the board's records, which indicated that there are limited funeral directors serving as funeral director's in charge of crematories and that the practice appears to have been a practice for the board over several years. There was discussion among the board and then public comments were heard.

### **HB1770 – Requiring preneed agents to be licensed funeral directors**

A motion was made by John McCulloch and seconded by Archie Camden to not support the bill as written. Motion carried with Gary Fraker, James Reinhard and Martin Vernon voting in favor with no votes in opposition.

### **HB1769 – Requiring all funeral director applicants to have post secondary education**

A motion was made by Archie Camden and seconded by John McCulloch to not support the bill as written. The motion carried with Martin voting yes and James Reinhard and Gary Fraker voting in opposition.

### **SB757 – Elimination of Limited Funeral Director Licenses**

A motion was made by Archie Camden and seconded by Martin Vernon to not support the bill as it is written. Motion carried with Gary Fraker, James Reinhard, and John McCulloch voting in favor with no votes in opposition.

Chairman stated that no bills were supported by the board.

### **Adjournment**

A motion was made by John McCulloch and seconded by Gary Fraker to adjourn at 10:20 a.m. Motion carried with James Reinhard, Archie Camden, and Martin Vernon voting in favor with no votes in opposition.

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors  
Examination Committee  
Conference Call**

**March 5 2012  
10:00 a.m.**

**State Board of Embalmers and Funeral Directors  
Missouri Conference Room  
3605 Missouri Boulevard  
Jefferson City, MO 65109**

**Open Minutes**

The meeting of the State Board of Embalmers and Funeral Directors Examination Committee was called to order by James Reinhard, Committee Chair at 10:03 a.m.

**Roll Call**

**Board Members Present**

James Reinhard, Committee Chair  
Archie Camden, Member

**Staff Present**

Sandy Sebastian, Executive Director  
Lisa Wildhaber, Examiner Supervisor  
Sharon Euler, Division Legal Counsel

**Approval of Open Agenda**

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda. Motion carried.

**Executive Director Report**

The office received suggested language from Darlene Russell that relates to \$36 per contract fee draft rule that the board discussed at the last meeting. The comments will be shared with the board.

**Legal Counsel Report**

Nothing to report

**Closed Meeting-Review of Financial Examinations**

A motion was made by Archie Camden and seconded by James Reinhard to move into closed session under Section 610.021 Subsection (14) and 620.010.14 Subsection (7)RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant.

**Adjournment**

A motion was made by Archie Camden and seconded by James Reinhard to adjourn the examination committee meeting at 11:03 a.m.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

## **State Board of Embalmers and Funeral Directors**

March 28, 2012  
Division of Professional Registration  
3605 Missouri Blvd  
Jefferson City, MO 65109

Conference Call

### **Open Minutes**

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 8:30 a.m.

#### **Roll Call**

##### **Members Present**

D. Todd Mahn, Chairman  
James Reinhard, Vice Chairman  
John McCulloch, Secretary (left call at 9:15am)  
Gary Fraker, Member  
Martin Vernon, Member  
Archie Camden, Member

##### **Staff Present**

Sandy Sebastian, Executive Director  
Tabatha Lenzini, Administrative Assistant  
Lori Hayes, Inspector  
Sharon Euler, Division Legal Counsel

#### **Approval of Agenda**

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

#### **Election of Officers**

A motion was made by Gary Fraker and seconded by James Reinhard to keep the same officers as current. Motion carried with John McCulloch, Archie Camden, and Martin Vernon voting in favor with no votes in opposition.

#### **Discussion/Dialogue**

There was discussion regarding the starting time of the next board meeting. The members indicated they would be available if the agenda demanded the meeting scheduled for April 24-25, 2012 needing to begin on the afternoon of April 23<sup>rd</sup>.

#### **Motion to Close**

A motion was made by James Reinhard and seconded by Gary Fraker to move to closed session pursuant to #1, #2 and #9. Motion carried with John McCulloch, Archie Camden, and Martin Vernon voting in favor with no votes in opposition.

**Adjournment**

Motion was made and seconded to adjourn the meeting at 9:45 a.m. Motion carried with no opposition. John McCulloch was not present for the vote.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors  
Examination Committee**

Conference Call

April 4, 2012

Division of Professional Registration  
Missouri Conference Room  
3605 Missouri Boulevard  
Jefferson City, MO 65109

**Open Minutes**

The meeting of the State Board of Embalmers and Funeral Directors Examination Committee was called to order by James Reinhard, Committee Chair at 8:37 a.m.

**Roll Call**

**Board Members Present**

James Reinhard, Committee Chair  
Archie Camden, Member

**Staff Present**

Sandy Sebastian, Executive Director  
Lisa Wildhaber, Examiner Supervisor  
Sharon Euler, Division Legal Counsel

**Approval of Open Agenda**

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

**Executive Director Report**

No report

**Legal Counsel Report**

No report

**Move to Closed**

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2 and #9.

**Adjourn**

Meeting Adjourned at 9:31 a.m.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**State Board of Embalmers and Funeral Directors  
Examination Committee**

Conference Call

April 9, 2012

Division of Professional Registration  
Missouri Conference Room  
3605 Missouri Boulevard  
Jefferson City, MO 65109

**Open Minutes**

The meeting of the State Board of Embalmers and Funeral Directors Examination Committee was called to order by James Reinhard, Committee Chair at 10:30 a.m.

**Roll Call**

**Board Members Present**

James Reinhard, Committee Chair  
Archie Camden, Member

**Staff Present**

Sandy Sebastian, Executive Director  
Lisa Wildhaber, Examiner Supervisor  
Sharon Euler, Division Legal Counsel

**Approval of Open Agenda**

A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda.

**Executive Director Report**

No report

**Legal Counsel Report**

No report

**Motion to Close**

A motion was made by Archie Camden and seconded by James Reinhard to move to closed session pursuant to #1, #2 and #9.

**Adjournment**

Meeting Adjourned at 11:01 a.m.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

## **State Board of Embalmers and Funeral Directors**

Conference Call

April 11, 2012

Division of Professional Registration  
Executive Conference Room  
3605 Missouri Boulevard  
Jefferson City, MO 65109

### **Open Minutes**

The meeting of the State Board of Embalmers and Funeral Directors was called to order by D. Todd Mahn, Chairman at 8:36 a.m.

#### **Roll Call**

##### **Board Members Present**

D. Todd Mahn, Chairman  
James Reinhard, Vice Chairman  
John McCulloch, Secretary  
Martin Vernon, Board Member  
Archie Camden, Board Member

##### **Board Members not present**

Gary Fraker, Board Member

##### **Staff Present**

Sandy Sebastian, Executive Director  
Tabatha Lenzini, Administrative Assistant  
Lori Hayes, Inspector  
Lisa Wildhaber, Examination Supervisor  
Sharon Euler, Division Legal Counsel

#### **Approval of Open Agenda**

A motion was made by James Reinhard and seconded by John McCulloch to approve the open agenda. Motion carried with Archie Camden and Martin Vernon voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

#### **Executive Director Report**

No report

#### **Legal Counsel Report**

No report

#### **Motion to Close**

A motion was made by John McCulloch and seconded by Archie Camden to move to closed session pursuant to #1, #2 and #9. Motion carried with James Reinhard, Martin Vernon voting in favor with no votes in opposition. Gary Fraker was not present for the meeting.

**Adjournment**

A motion was made by Archie Camden and seconded by John McCulloch to adjourn the meeting. Motion carried with James Reinhard, Martin Vernon voting in favor with no votes in opposition. Gary Fraker not present for the meeting.

**Executive Director:** \_\_\_\_\_

**Approved by the Board on:** \_\_\_\_\_

## MOTIONS TO GO INTO CLOSED SESSION

1. DISCIPLINE

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo and 324.001.9 RSMo for deliberation on discipline

2. LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

3. PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency

4. DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) 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

5. EXAMINATION MATERIALS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials

6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees

7. APPLICATIONS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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

8. CLOSED MINUTES

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings

9. COMPLAINTS/ INVESTIGATIVE REPORTS/AUDITS

I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant

Revised 09-11

**Closed Funeral Establishments, Preneed Providers, and Preneed Sellers  
Between 11/23/2011 and 4/19/2012**

<b>Funeral Establishment</b>	<b>Name</b>	<b>Lic Number</b>	<b>Address</b>	<b>License Status</b>	<b>Exp Date</b>	<b>Closed Date</b>
	Wise & Slater Funeral Home	001042	315 East Commercial Ave	Closed/Change of Owner	12/31/2013	12/13/2011
	Schrader Funeral Home Inc	2011001355	Spickard, MO 64679 14968 Manchester Rd	Closed/Out of Business	12/31/2011	12/12/2011
	Ange Corporation	001755	Ballwin, MO 63011 145 S Clompton St	Closed/Out of Business	12/31/2013	3/6/2012
	BKG Company, L.L.C.	2006000310	Dadeville, MO 65635 211 S Oak	Closed/Change of Owner	12/31/2011	11/29/2011
	Trimble Funeral Home, Inc.	002563	California, MO 65018 Maries St	Closed/Out of Business	12/31/2013	4/2/2012
	Slater Funeral Home	000329	Westphalia, MO 65085 412 E 9th St	Closed/Change of Owner	12/31/2013	12/13/2011
	Driver Funeral Service LLC	2010015135	Trenton, MO 64683 102 S Interstate Dr #23	Closed/Change of Location	12/31/2011	1/26/2012
	Waynesville Memorial Chapel, Inc	2008036458	Miner, MO 63801 202 Historic 66 W	Closed/Change of Owner	12/31/2011	11/23/2011
	Wallace Funeral Home, Inc.	2001032830	Waynesville, MO 65583 300 Main	Closed/Out of Business	12/31/2011	2/9/2012
	Hilleman Funeral Home, Inc.	001626	Cleveland, MO 64734 9709 Lackland Road	Closed/Out of Business	12/31/2011	2/27/2012
	Waynesville Memorial Chapel, Inc.	2003002243	Overland, MO 631143413 715 E Jefferson	Closed/Change of Owner	12/31/2011	11/23/2011
			Richland, MO 65556			

**Closed Funeral Establishments, Preneed Providers, and Preneed Sellers  
Between 11/23/2011 and 4/19/2012**

<b>Preneed Provider</b>	<b>Name</b>	<b>Lic Number</b>	<b>Address</b>	<b>License Status</b>	<b>Exp Date</b>	<b>Closed Date</b>
	Hilleman Funeral Home, Inc	2009039024	9709 Lackland Rd	Closed/Out of Business	10/31/2011	2/27/2012
	Donald Slater	2009038800	Saint Louis, MO 63114 412 E. 9th Street	Closed/Change of Owner	10/31/2012	12/13/2011
	Driver Funeral Service LLC	2011008690	Trenton, MO 64683 102 S Interstate DR #23	Closed/Change of Location	10/31/2012	1/26/2012
	Waynesville Memorial Chapel, Inc	2009039715	Miner, MO 63801 715 E Jefferson Ave	Closed/Change of Owner	10/31/2012	11/23/2011
	Waynesville Memorial Chapel, Inc	2009039080	Richland, MO 65556 202 Historic 66 West	Closed/Change of Owner	10/31/2012	11/23/2011
	BKG Company	2009037463	Waynesville, MO 65583 211 S Oak	Closed/Change of Owner	10/31/2012	11/30/2011
	Schrader Funeral Home Inc	2011001356	California, MO 65018 14968 Manchester Rd	Closed/Out of Business	10/31/2011	12/12/2011
<b>Preneed Seller</b>	Donald Slater	2009038801	Ballwin, MO 63011 412 E. 9th Street	Active	10/31/2012	12/13/2011
	Hilleman Funeral Home Inc	2009039025	Trenton, MO 64683 9709 Lackland Rd	Closed/Out of Business	10/31/2011	2/27/2012
	David H. Sterne	2009039017	Saint Louis, MO 63114 106 N 3rd St	Closed/Out of Business	10/31/2011	1/13/2012
	Waynesville Memorial Chapel, Inc	2009039081	Louisiana, MO 63353 202 Historic 66 West	Closed/Change of Owner	10/31/2012	11/23/2011
			Waynesville, MO 65583			

**Closed Funeral Establishments, Preneed Providers, and Preneed Sellers  
Between 11/23/2011 and 4/19/2012**

<b>Preneed Seller</b>	<b>Name</b>	<b>Lic Number</b>	<b>Address</b>	<b>License Status</b>	<b>Exp Date</b>	<b>Closed Date</b>
	Hosea E. Gales	2009039015	5039 Delmar Blvd  Saint Louis, MO 63108	Closed/Out of Business	10/31/2011	12/8/2011

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2008-000084      **Ted Foster & Sons Funeral Home, Inc. 001502 - Board Investigation - REVOKED**

Ted Foster & Sons Funera S/C:

01/24/2012

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Revoked

#### Preneed Provider Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 10192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

#### Preneed Seller Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 0192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

April 12, 2008. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009. Foster's conduct as outlined above, in the capacity as FDIC for the above mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

Preneed Provider Failure to File Annual Report  
Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008. As preneed providers, Foster & Sons and Foster & Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Preneed Seller Failure to File Annual Report Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo. Foster & Sons failed to file a preneed seller annual report for 2007. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

**Headstones**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

**Failure to Notify**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2008-002512      **Ted Foster & Sons Funeral Home Inc 001502, 002397 & 2004021704 - Board Investigation REVOKED**

Ted Foster & Sons Funera S/C:

**DBA:**Ted Foster & Sons Funera 01/24/2012

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Revoked

#### Preneed Provider Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 10192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

#### Preneed Seller Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 0192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

April 12, 2008. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009. Foster's conduct as outlined above, in the capacity as FDIC for the above mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

Preneed Provider Failure to File Annual Report  
Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008. As preneed providers, Foster & Sons and Foster & Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Preneed Seller Failure to File Annual Report Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo. Foster & Sons failed to file a preneed seller annual report for 2007. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

**Headstones**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

**Failure to Notify**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2008-002512      **Ted Foster & Sons Funeral Home Inc 001502, 002397 & 2004021704 - Board Investigation REVOKED**

Ted Foster & Sons Funera S/C:

01/24/2012

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Revoked

#### Preneed Provider Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 10192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

#### Preneed Seller Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 0192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

April 12, 2008. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009. Foster's conduct as outlined above, in the capacity as FDIC for the above mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

Preneed Provider Failure to File Annual Report  
Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008. As preneed providers, Foster & Sons and Foster & Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Preneed Seller Failure to File Annual Report Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo. Foster & Sons failed to file a preneed seller annual report for 2007. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

**Headstones**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

**Failure to Notify**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2008-002512      **Ted Foster & Sons Funeral Home Inc 001502, 002397 & 2004021704 - Board Investigation REVOKED**

Ted Foster & Sons, Inc      S/C:

**DBA:** Ted Foster & Sons White I      01/24/2012

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Revoked

#### Preneed Provider Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 10192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

#### Preneed Seller Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 0192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

April 12, 2008. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009. Foster's conduct as outlined above, in the capacity as FDIC for the above mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

### Preneed Provider Failure to File Annual Report

Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008. As preneed providers, Foster & Sons and Foster & Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Preneed Seller Failure to File Annual Report Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo. Foster & Sons failed to file a preneed seller annual report for 2007. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

**Headstones**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

**Failure to Notify**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2008-006245 **Foster, Theodore V. Sr. FDR 000890 EMB 005469 - Board Investigation 3 yr suspen 2 yr prob**

Foster, Theodore V, Sr S/C:

01/24/2012

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Suspension

#### Preneed Provider Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 10192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

#### Preneed Seller Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 0192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

April 12, 2008. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009. Foster's conduct as outlined above, in the capacity as FDIC for the above mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

### Preneed Provider Failure to File Annual Report

Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008. As preneed providers, Foster & Sons and Foster & Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Preneed Seller Failure to File Annual Report Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo. Foster & Sons failed to file a preneed seller annual report for 2007. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

**Headstones**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

**Failure to Notify**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2008-006245      **Foster, Theodore V. Sr. FDR 000890 EMB 005469 - Board Investigation 3 yr suspen 2 yr prob**

Foster, Theodore V, Sr      S/C:

01/24/2012

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Suspension

#### Preneed Provider Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 10192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about April 12, 2008. The foreclosure sale and eviction from these properties represented the disposing of a majority of Foster & Sons business assets and the majority of Foster & Sons Funeral Home business assets. Pursuant to § 436.015.2, RSMo, Foster & Sons, Foster, and Foster & Sons Funeral Home, as preneed providers, were required to provide written notice to the Board at least 30 days prior to the disposing of the majority of their business assets. On or about May 13, 2008, Foster & Sons and Foster & Sons Funeral Home filed a notice with the Board that, as preneed providers, they intended to sell assets and was to cease doing business after the disposal of their business assets. Foster & Sons and Foster & Sons Funeral Home failed to supply written notice to the Board within at least 30 days of the disposing of the majority of their business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons' funeral home establishment license pursuant to § 333.121.2(15), RSMo. Based on the aforementioned conduct, Foster & Sons Funeral Home is in violation of § 436.015.2, RSMo, and thus provides cause for the Board to discipline Foster & Sons Funeral Home's funeral home establishment license pursuant to § 333.121.2(19), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for both of the above-mentioned corporate entities, in violation of his duty to ensure compliance with the law as a FDIC constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC, assisted in enabling Foster & Sons and Foster & Sons Funeral Home to violate § 436.015.2, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Foster's conduct as outlined above, including, but not limited to, his failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

#### Preneed Seller Failure to Report

In or around June 2007, properties belonging to Foster & Sons and/or Foster & Sons Funeral Home were sold at foreclosure sales. Those properties were: 0192 Halls Ferry Road, St. Louis, Missouri; 1207, 1221-1225 North Grand, St. Louis, Missouri; and 3737 Olive Street, St. Louis, Missouri. Foster & Sons Funeral Home was evicted from the Olive Street and Grand locations on or about December 12, 2007; and Foster & Sons was evicted from the Halls Ferry Road location on or about

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

April 12, 2008. The foreclosure sales of and evictions from these properties represented the disposing of a majority of Foster & Sons' and/or Foster & Sons Funeral Home's business assets. Pursuant to § 436.021.3, RSMo, as a preneed seller, Foster & Sons was required to provide written notice to the Board at least 60 days prior to the disposing of the majority of its business assets. On or about June 11, 2008, Foster & Sons filed a notice with the Board that as a preneed seller, it intended to sell assets and to cease doing business after the disposal of its business assets. Based on the aforementioned conduct, Foster & Sons is in violation of § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Based on the aforementioned conduct, Foster, as FDIC, in violation of his duty to ensure compliance with the law as a FDIC enabled Foster & Sons to violate § 436.021.3, RSMo, and thus cause exists for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.330.2(6), RSMo Cum. Supp. 2009. Foster's conduct as outlined above, in the capacity as FDIC for the above mentioned corporate entities is in violation of his duty to ensure compliance with the law as a FDIC, and including, but not limited to, the failing to timely notify the Board of the impending disposal of a majority of business assets, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo.

### Preneed Provider Failure to File Annual Report

Foster & Sons was registered as a preneed provider, Registration No. 2004021703, until a written ceasement of business notification was filed with the Board on May 13, 2008. Foster & Sons Funeral Home was registered as a preneed provider, Registration No. P00332, until a written ceasement of business notification was filed with the Board on May 13, 2008. As preneed providers, Foster & Sons and Foster & Sons Funeral Home were required to file annual reports pursuant to § 436.015.2(2), RSMo. Foster & Sons and Foster & Sons Funeral Home failed to file preneed provider annual reports for 2007. Based on the conduct described above, Foster & Sons Funeral Home is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons Funeral Home's establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.015.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct in violation of his duty as FDIC for the aforementioned corporate entities to ensure compliance with the law, and including but not limited to, failing to ensure the filing of the annual preneed provider reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the aforementioned conduct and because Foster, as FDIC for the aforementioned corporate entities, violated his duty as FDIC to ensure compliance with the law, enabled Foster & Sons Funeral Home and Foster & Sons to violate § 436.015.2(2), RSMo, and thus cause exists for

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(6), RSMo. Preneed Seller Failure to File Annual Report Foster & Sons was registered as a preneed seller, Registration No. S00461, until a ceasement notification was filed with the Board on June 11, 2008. As a preneed seller, Foster & Sons was required to file an annual report pursuant to § 436.021.2(2), RSMo. Foster & Sons failed to file a preneed seller annual report for 2007. Foster, as FDIC for Foster & Sons and Foster & Sons Funeral Home, had a duty to ensure that both corporate entities complied with the laws regulating funeral homes. Foster's conduct, as FDIC for the aforementioned corporate entities, violated his FDIC duty to ensure compliance with the law, and including, but not limited to, failing to ensure the filing of the annual preneed seller reports, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of an embalmer or funeral director, and thus provides grounds for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(5), RSMo. Based on the conduct described above, Foster & Sons is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster & Sons' establishment license pursuant to § 333.121.2(15), RSMo. Based on the conduct described above, Foster, as FDIC with a duty to ensure compliance with the law, is in violation of § 436.021.2(2), thus providing cause for the Board to discipline Foster's embalmer's and funeral director's licenses pursuant to § 333.121.2(15), RSMo.

**Headstones**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased and to the public at large that he served. Foster & Sons Funeral Home, as a funeral home, held a professional trust and confidence to the next of kin of the deceased and to the public at large that it served. In or around 1993, Foster was involved in producing at least 22 headstones for a cemetery relocation project spurred by the expansion of the St. Louis City Airport from the Washington Park Cemetery. Twenty-two of the headstones were not ultimately used, despite having the names and dates of decedents on them because of disagreement by family members of the deceased on the accuracy of the information. These and other headstones remained in the possession of Foster. In December 2007, Foster was evicted from his business location on Olive Street in St. Louis, Missouri. Upon eviction, Foster & Sons Funeral Homes failed to remove the headstones and abandoned them in the building without any records or documentation. These headstones were later moved outside of the building by the new occupant of the building, and for several weeks were left lining an adjacent sidewalk to the consternation of relatives of the deceased and the public at large who frequented the area. By on or about January 24, 2008, Foster finally collected the headstones and placed them in a trailer. Foster & Sons Funeral Home's conduct, as outlined above, including, but not limited to, the abandonment of the headstones, constitutes a violation of the professional trust or confidence that Foster & Sons Funeral Home had to the next of kin of the deceased and the public at large as a licensed funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons Funeral Home's funeral establishment license pursuant to § 333.121.2(13), RSMo.

**Failure to Notify**  
 Foster, as a funeral director, held a professional trust and confidence to the next of kin of the deceased that he served. Foster & Sons, as a funeral home, held a professional trust and confidence to the next of kin of the deceased that it served. In or around April 11, 2008, Foster, as the registered FDIC of Foster & Sons, oversaw

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Foster, as the registered FDIC of Foster & Sons, oversaw the eviction of Foster & Sons from its Halls Ferry location. Despite having bodies belonging to families in his possession, Foster failed to contact the families in advance to provide notice of the eviction and subsequent removal of the family members' loved one's bodies. Foster's conduct, as outlined above, in the capacity of FDIC for Foster & Sons, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(5), RSMo. Foster's conduct, as outlined above, in the capacity of FDIC for both corporate entities, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster had to the next of kin of the deceased as a licensed funeral director, and thus provides grounds for the Board to discipline Foster's funeral director's license pursuant to § 333.121.2(13), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes incompetence, misconduct, or gross negligence in the performance of the functions and duties of a funeral establishment, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(5), RSMo. Foster & Sons' conduct, as outlined above, including, but not limited to, failure to provide notice to families on the eviction and subsequent removal of the aforementioned bodies, constitutes a violation of the professional trust or confidence that Foster & Sons had to the next of kin of the deceased as a licensed funeral home, and thus provides grounds for the Board to discipline Foster & Sons' funeral establishment's license pursuant to § 333.121.2(13), RSMo.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2011-001165      **Officer Mortuary, LLC 2011040378, 2011040380, 2011040379 Unlicensed- Board Investigation**

Officer Mortuary LLC

S/C:

12/13/2011

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Probation

#### Operating Without an Establishment License

The Board conducted an investigation to determine whether Officer Mortuary operated as a funeral establishment without a funeral establishment license. On August 11, 2011, the Board's investigator visited the location of Officer Mortuary and found the following violations: The funeral home was open for business; No funeral establishment license was posted; Mr. Officer was present and informed the Board that the funeral home was operating under a license issued to Officer Mortuary, Inc., a business that had been operated at that location by his sister, but provided the Board with no documentation so show a valid funeral establishment license; A body was present in the preparation room that was being prepared for final disposition; The register book in the preparation room showed the first entry to reflect a body was embalmed on December 15, 2010 and the 2011 register book contained 44 entries with the first dated January 1, 2011 and the last dated August 16, 2011. The log appeared to be missing 9 entries when compared against the written statements of goods and services provided to the Board's investigators; Records from the City of St. Louis indicated that the business had closed on June 15, 2011 and no new city business license had issued; Officer Mortuary produced no valid city business license; Officer Mortuary, in correspondence with the Board and others, used letterhead in at least August and September, 2011, with the name of "Officer Mortuary, L.L.C. Ellis Chapel" that listed the officers of the company and the "professional services manager" including Marion E. Officer, Jr. as president; The business card of the funeral director in charge listed the business as "Officer Mortuary L.L.C. Ellis Chapel"; Officer Mortuary provided funeral service brochures to families and those in attendance at funeral services listed "Services Entrusted to: Officer Mortuary, LLC Ellis Chapel" on at least 4 occasions; The written statements of goods and services provided to families for goods and services provided to families showed the name of the business to be "Officer Mortuary, L.L.C." and listed Marion E. Officer, Jr. as President. Officer Mortuary provided 46 funeral services to families, as evidenced by the written statements of goods and services for persons who died between December 13, 2010 and August 27, 2011. Between the dates of November 10, 2010 and September 8, 2011, Officer Mortuary submitted 46 death certificates to the Division of Vital Records using the name of Officer Funeral Home, Inc. On September 29, 2011, Officer Mortuary appeared, by its attorney and Marion E. Officer, Jr., before the Board to respond to inquiries of the Board regarding its unlicensed practice and the pending applications for licensure. The location at which Officer Mortuary seeks licensure, 1905 N. Union Blvd., St. Louis, Missouri 63113, had previously been a licensed funeral establishment operated by Officer Funeral Home, Inc. On November 29, 2010, the Board received notice from Officer Funeral Home, Inc. that it would be ceasing business and would no longer operate a funeral establishment at 1905 N. Union Blvd, St. Louis, Missouri. Officer Funeral Home, Inc. subsequently informed the Board that it ceased operation as a funeral establishment on November 18, 2010. Between November 19, 2010 and until approximately September 20, 2011, Officer Mortuary operated as a funeral establishment at 1905 North Union Boulevard, St. Louis, Missouri when it had no valid funeral establishment license. Officer Mortuary held out to the public that it was a duly licensed funeral establishment when it held no such license.

Officer Mortuary provided services for at least 46 decedents during the time when it was not licensed.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Officer Mortuary filed documents with the State of Missouri, Department of Health and Senior Services, Division of Vital Records holding out as Officer Funeral Home, Inc. when it had no such authority to do so and when, in fact, Officer Mortuary provided the final disposition services and not Officer Funeral Home, Inc. Acting as Provider Without a License

Officer Mortuary provided the Board with 2 preneed funeral contracts listing Officer Funeral as the Provider - one contract was issued on July 13, 2011 to T.D. with a face value of \$5,335 and one contract was issued on July 5, 2011 to M.C. with a face value of \$700.60. On the contract for T.D., sold to the consumer by an employee of Officer Mortuary, Marion E. Officer, Jr., signed on behalf of Officer Mortuary acknowledging it would serve as the provider for life insurance funded preneed contract. On the contract for M.C., Officer Mortuary is listed as the provider and the contract was sold to the consumer by an employee of Officer Mortuary. Officer Mortuary acted as a provider when it held no such license.

### Disclosure of Discipline

On the Application, Officer Mortuary checked the "yes" box in response to the following questions: Has any owner of the establishment ever had any license or right to practice held by you, restricted or disciplined, such disciplinary action to include, but not be limited to, revocation, suspension, probation, censure or reprimand whether voluntarily agreed to or not, by any U.S. state, territory, federal agency, Canadian province or foreign country? If yes, attach a full explanation. Has any owner ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subject to any type of disciplinary action? If yes, attach a full explanation. In explanation for the "yes" answers on the Application, Mr. Officer provided the Board with a letter of explanation. Mr. Officer disclosed "In late 1989 the Officer Funeral Home of East St. Louis Illinois was reprimanded for the mishandling of a deceased human infant remains."

### Discipline on License by State of Illinois

Records obtained from the Illinois Department of Financial and Professional Regulation show the following discipline on Mr. Officer's Illinois funeral director and embalmer license:

On March 3, 1992, The State of Illinois Department of Professional Regulation ("State of Illinois") entered into a consent order with Mr. Officer placing his funeral director and embalmer license on probation for a period of one year and imposing a \$5,000 fine in settlement of allegations that Mr. Officer received dead human remains in November, 1988, but the requested cremation was not performed and the embalmed dead human remains were found abandoned at the former site of a funeral home operated by Mr. Officer.

On August 24, 2004, the State of Illinois and Mr. Officer entered into a Consent Order reprimanding the embalmer and funeral director license held by Mr. Officer and imposing a \$100 fine in settlement of allegations that Mr. Officer's office manager falsified three funeral claim forms in the amount of \$2,000. On March 26, 2010, the State of Illinois and Mr. Officer entered into a consent order (the "2010 Consent Order") in settlement of allegations of misconduct including providing substandard funeral services and agreeing to refund monies to consumers, but not honoring his commitment to do so. The 2010 Consent Order included orders that Mr. Officer's funeral director and embalmer license be indefinitely suspended for a period of six months; a fine of \$5,000 be imposed; Mr. Officer must complete continuing education coursework of 6 credit hours on regulations dealing with funeral directing and embalming and 6 credit hours of

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

### Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

expanding funeral ethics; correct a death certificate to show burial instead of cremation; that Mr. Officer issue refunds totaling \$5,500 to two families; and provide to the State of Illinois a written business plan containing protocols for submitting accurate insurance forms and authorizations, maintaining correct records and providing funeral services as requested. The 2010 Consent Order also stated that if a petition for restoration of licenses was granted, the license would be on probation. On March 28, 2011, the State of Illinois issued a "Suspension Order" due to unpaid tax liability or failure to file tax returns and suspended Mr. Officer's funeral director and embalmer license. Mr. Officer's funeral director and embalmer license remains suspended in Illinois.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2011-001165      **Officer Mortuary, LLC 2011040378, 2011040380, 2011040379 Unlicensed- Board Investigation**

Officer Mortuary LLC

S/C:

12/13/2011

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Probation

#### Operating Without an Establishment License

The Board conducted an investigation to determine whether Officer Mortuary operated as a funeral establishment without a funeral establishment license. On August 11, 2011, the Board's investigator visited the location of Officer Mortuary and found the following violations: The funeral home was open for business; No funeral establishment license was posted; Mr. Officer was present and informed the Board that the funeral home was operating under a license issued to Officer Mortuary, Inc., a business that had been operated at that location by his sister, but provided the Board with no documentation so show a valid funeral establishment license; A body was present in the preparation room that was being prepared for final disposition; The register book in the preparation room showed the first entry to reflect a body was embalmed on December 15, 2010 and the 2011 register book contained 44 entries with the first dated January 1, 2011 and the last dated August 16, 2011. The log appeared to be missing 9 entries when compared against the written statements of goods and services provided to the Board's investigators; Records from the City of St. Louis indicated that the business had closed on June 15, 2011 and no new city business license had issued; Officer Mortuary produced no valid city business license; Officer Mortuary, in correspondence with the Board and others, used letterhead in at least August and September, 2011, with the name of "Officer Mortuary, L.L.C. Ellis Chapel" that listed the officers of the company and the "professional services manager" including Marion E. Officer, Jr. as president; The business card of the funeral director in charge listed the business as "Officer Mortuary L.L.C. Ellis Chapel"; Officer Mortuary provided funeral service brochures to families and those in attendance at funeral services listed "Services Entrusted to: Officer Mortuary, LLC Ellis Chapel" on at least 4 occasions; The written statements of goods and services provided to families for goods and services provided to families showed the name of the business to be "Officer Mortuary, L.L.C." and listed Marion E. Officer, Jr. as President. Officer Mortuary provided 46 funeral services to families, as evidenced by the written statements of goods and services for persons who died between December 13, 2010 and August 27, 2011. Between the dates of November 10, 2010 and September 8, 2011, Officer Mortuary submitted 46 death certificates to the Division of Vital Records using the name of Officer Funeral Home, Inc. On September 29, 2011, Officer Mortuary appeared, by its attorney and Marion E. Officer, Jr., before the Board to respond to inquiries of the Board regarding its unlicensed practice and the pending applications for licensure. The location at which Officer Mortuary seeks licensure, 1905 N. Union Blvd., St. Louis, Missouri 63113, had previously been a licensed funeral establishment operated by Officer Funeral Home, Inc. On November 29, 2010, the Board received notice from Officer Funeral Home, Inc. that it would be ceasing business and would no longer operate a funeral establishment at 1905 N. Union Blvd, St. Louis, Missouri. Officer Funeral Home, Inc. subsequently informed the Board that it ceased operation as a funeral establishment on November 18, 2010. Between November 19, 2010 and until approximately September 20, 2011, Officer Mortuary operated as a funeral establishment at 1905 North Union Boulevard, St. Louis, Missouri when it had no valid funeral establishment license. Officer Mortuary held out to the public that it was a duly licensed funeral establishment when it held no such license.

Officer Mortuary provided services for at least 46 decedents during the time when it was not licensed.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

Officer Mortuary filed documents with the State of Missouri, Department of Health and Senior Services, Division of Vital Records holding out as Officer Funeral Home, Inc. when it had no such authority to do so and when, in fact, Officer Mortuary provided the final disposition services and not Officer Funeral Home, Inc. Acting as Provider Without a License

Officer Mortuary provided the Board with 2 preneed funeral contracts listing Officer Funeral as the Provider - one contract was issued on July 13, 2011 to T.D. with a face value of \$5,335 and one contract was issued on July 5, 2011 to M.C. with a face value of \$700.60. On the contract for T.D., sold to the consumer by an employee of Officer Mortuary, Marion E. Officer, Jr., signed on behalf of Officer Mortuary acknowledging it would serve as the provider for life insurance funded preneed contract. On the contract for M.C., Officer Mortuary is listed as the provider and the contract was sold to the consumer by an employee of Officer Mortuary. Officer Mortuary acted as a provider when it held no such license.

### Disclosure of Discipline

On the Application, Officer Mortuary checked the "yes" box in response to the following questions: Has any owner of the establishment ever had any license or right to practice held by you, restricted or disciplined, such disciplinary action to include, but not be limited to, revocation, suspension, probation, censure or reprimand whether voluntarily agreed to or not, by any U.S. state, territory, federal agency, Canadian province or foreign country? If yes, attach a full explanation. Has any owner ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subject to any type of disciplinary action? If yes, attach a full explanation. In explanation for the "yes" answers on the Application, Mr. Officer provided the Board with a letter of explanation. Mr. Officer disclosed "In late 1989 the Officer Funeral Home of East St. Louis Illinois was reprimanded for the mishandling of a deceased human infant remains."

### Discipline on License by State of Illinois

Records obtained from the Illinois Department of Financial and Professional Regulation show the following discipline on Mr. Officer's Illinois funeral director and embalmer license:

On March 3, 1992, The State of Illinois Department of Professional Regulation ("State of Illinois") entered into a consent order with Mr. Officer placing his funeral director and embalmer license on probation for a period of one year and imposing a \$5,000 fine in settlement of allegations that Mr. Officer received dead human remains in November, 1988, but the requested cremation was not performed and the embalmed dead human remains were found abandoned at the former site of a funeral home operated by Mr. Officer.

On August 24, 2004, the State of Illinois and Mr. Officer entered into a Consent Order reprimanding the embalmer and funeral director license held by Mr. Officer and imposing a \$100 fine in settlement of allegations that Mr. Officer's office manager falsified three funeral claim forms in the amount of \$2,000. On March 26, 2010, the State of Illinois and Mr. Officer entered into a consent order (the "2010 Consent Order") in settlement of allegations of misconduct including providing substandard funeral services and agreeing to refund monies to consumers, but not honoring his commitment to do so. The 2010 Consent Order included orders that Mr. Officer's funeral director and embalmer license be indefinitely suspended for a period of six months; a fine of \$5,000 be imposed; Mr. Officer must complete continuing education coursework of 6 credit hours on regulations dealing with funeral directing and embalming and 6 credit hours of

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

### Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

expanding funeral ethics; correct a death certificate to show burial instead of cremation; that Mr. Officer issue refunds totaling \$5,500 to two families; and provide to the State of Illinois a written business plan containing protocols for submitting accurate insurance forms and authorizations, maintaining correct records and providing funeral services as requested. The 2010 Consent Order also stated that if a petition for restoration of licenses was granted, the license would be on probation. On March 28, 2011, the State of Illinois issued a "Suspension Order" due to unpaid tax liability or failure to file tax returns and suspended Mr. Officer's funeral director and embalmer license. Mr. Officer's funeral director and embalmer license remains suspended in Illinois.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2011-001165      **Officer Mortuary, LLC 2011040378, 2011040380, 2011040379 Unlicensed- Board Investigation**

Officer Mortuary LLC

S/C:

12/13/2011

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

### Probation

#### Operating Without an Establishment License

The Board conducted an investigation to determine whether Officer Mortuary operated as a funeral establishment without a funeral establishment license. On August 11, 2011, the Board's investigator visited the location of Officer Mortuary and found the following violations: The funeral home was open for business; No funeral establishment license was posted; Mr. Officer was present and informed the Board that the funeral home was operating under a license issued to Officer Mortuary, Inc., a business that had been operated at that location by his sister, but provided the Board with no documentation so show a valid funeral establishment license; A body was present in the preparation room that was being prepared for final disposition; The register book in the preparation room showed the first entry to reflect a body was embalmed on December 15, 2010 and the 2011 register book contained 44 entries with the first dated January 1, 2011 and the last dated August 16, 2011. The log appeared to be missing 9 entries when compared against the written statements of goods and services provided to the Board's investigators; Records from the City of St. Louis indicated that the business had closed on June 15, 2011 and no new city business license had issued; Officer Mortuary produced no valid city business license; Officer Mortuary, in correspondence with the Board and others, used letterhead in at least August and September, 2011, with the name of "Officer Mortuary, L.L.C. Ellis Chapel" that listed the officers of the company and the "professional services manager" including Marion E. Officer, Jr. as president; The business card of the funeral director in charge listed the business as "Officer Mortuary L.L.C. Ellis Chapel"; Officer Mortuary provided funeral service brochures to families and those in attendance at funeral services listed "Services Entrusted to: Officer Mortuary, LLC Ellis Chapel" on at least 4 occasions; The written statements of goods and services provided to families for goods and services provided to families showed the name of the business to be "Officer Mortuary, L.L.C." and listed Marion E. Officer, Jr. as President. Officer Mortuary provided 46 funeral services to families, as evidenced by the written statements of goods and services for persons who died between December 13, 2010 and August 27, 2011. Between the dates of November 10, 2010 and September 8, 2011, Officer Mortuary submitted 46 death certificates to the Division of Vital Records using the name of Officer Funeral Home, Inc. On September 29, 2011, Officer Mortuary appeared, by its attorney and Marion E. Officer, Jr., before the Board to respond to inquiries of the Board regarding its unlicensed practice and the pending applications for licensure. The location at which Officer Mortuary seeks licensure, 1905 N. Union Blvd., St. Louis, Missouri 63113, had previously been a licensed funeral establishment operated by Officer Funeral Home, Inc. On November 29, 2010, the Board received notice from Officer Funeral Home, Inc. that it would be ceasing business and would no longer operate a funeral establishment at 1905 N. Union Blvd, St. Louis, Missouri. Officer Funeral Home, Inc. subsequently informed the Board that it ceased operation as a funeral establishment on November 18, 2010. Between November 19, 2010 and until approximately September 20, 2011, Officer Mortuary operated as a funeral establishment at 1905 North Union Boulevard, St. Louis, Missouri when it had no valid funeral establishment license. Officer Mortuary held out to the public that it was a duly licensed funeral establishment when it held no such license.

Officer Mortuary provided services for at least 46 decedents during the time when it was not licensed.

3605 Missouri Blvd.  
 Jefferson City, Missouri 65102  
 (573) 751-0293

## Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

Officer Mortuary filed documents with the State of Missouri, Department of Health and Senior Services, Division of Vital Records holding out as Officer Funeral Home, Inc. when it had no such authority to do so and when, in fact, Officer Mortuary provided the final disposition services and not Officer Funeral Home, Inc. Acting as Provider Without a License

Officer Mortuary provided the Board with 2 preneed funeral contracts listing Officer Funeral as the Provider - one contract was issued on July 13, 2011 to T.D. with a face value of \$5,335 and one contract was issued on July 5, 2011 to M.C. with a face value of \$700.60. On the contract for T.D., sold to the consumer by an employee of Officer Mortuary, Marion E. Officer, Jr., signed on behalf of Officer Mortuary acknowledging it would serve as the provider for life insurance funded preneed contract. On the contract for M.C., Officer Mortuary is listed as the provider and the contract was sold to the consumer by an employee of Officer Mortuary. Officer Mortuary acted as a provider when it held no such license.

### Disclosure of Discipline

On the Application, Officer Mortuary checked the "yes" box in response to the following questions: Has any owner of the establishment ever had any license or right to practice held by you, restricted or disciplined, such disciplinary action to include, but not be limited to, revocation, suspension, probation, censure or reprimand whether voluntarily agreed to or not, by any U.S. state, territory, federal agency, Canadian province or foreign country? If yes, attach a full explanation. Has any owner ever had any professional license, certification, registration or permit revoked, suspended, placed on probation, censured, reprimanded, fined or otherwise subject to any type of disciplinary action? If yes, attach a full explanation. In explanation for the "yes" answers on the Application, Mr. Officer provided the Board with a letter of explanation. Mr. Officer disclosed "In late 1989 the Officer Funeral Home of East St. Louis Illinois was reprimanded for the mishandling of a deceased human infant remains."

### Discipline on License by State of Illinois

Records obtained from the Illinois Department of Financial and Professional Regulation show the following discipline on Mr. Officer's Illinois funeral director and embalmer license:

On March 3, 1992, The State of Illinois Department of Professional Regulation ("State of Illinois") entered into a consent order with Mr. Officer placing his funeral director and embalmer license on probation for a period of one year and imposing a \$5,000 fine in settlement of allegations that Mr. Officer received dead human remains in November, 1988, but the requested cremation was not performed and the embalmed dead human remains were found abandoned at the former site of a funeral home operated by Mr. Officer.

On August 24, 2004, the State of Illinois and Mr. Officer entered into a Consent Order reprimanding the embalmer and funeral director license held by Mr. Officer and imposing a \$100 fine in settlement of allegations that Mr. Officer's office manager falsified three funeral claim forms in the amount of \$2,000. On March 26, 2010, the State of Illinois and Mr. Officer entered into a consent order (the "2010 Consent Order") in settlement of allegations of misconduct including providing substandard funeral services and agreeing to refund monies to consumers, but not honoring his commitment to do so. The 2010 Consent Order included orders that Mr. Officer's funeral director and embalmer license be indefinitely suspended for a period of six months; a fine of \$5,000 be imposed; Mr. Officer must complete continuing education coursework of 6 credit hours on regulations dealing with funeral directing and embalming and 6 credit hours of

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

### Disciplinary Actions

Ordered From 11/23/2011 Through 04/19/2012

---

expanding funeral ethics; correct a death certificate to show burial instead of cremation; that Mr. Officer issue refunds totaling \$5,500 to two families; and provide to the State of Illinois a written business plan containing protocols for submitting accurate insurance forms and authorizations, maintaining correct records and providing funeral services as requested. The 2010 Consent Order also stated that if a petition for restoration of licenses was granted, the license would be on probation. On March 28, 2011, the State of Illinois issued a "Suspension Order" due to unpaid tax liability or failure to file tax returns and suspended Mr. Officer's funeral director and embalmer license. Mr. Officer's funeral director and embalmer license remains suspended in Illinois.

3605 Missouri Blvd.  
Jefferson City, Missouri 65102  
(573) 751-0293

**Disciplinary Actions**

Ordered From 11/23/2011 Through 04/19/2012

---

**Complaint:** 2012-001308 **George, Barbara** **DOR HB600**

George, Barbara Ann S/C:   
03/03/2012

Suspended 324.010

This license has been suspended by operation of law pursuant to Section 324.010, RSMo, which requires suspension of the professional license of individuals who fail to file state tax returns or fail to pay state tax liabilities.

---

**Complaint:** 2012-001309 **George, Ronald** **DOR HB600**

George, Ronald J, Sr. S/C:   
03/03/2012

Suspended 324.010

This license has been suspended by operation of law pursuant to Section 324.010, RSMo, which requires suspension of the professional license of individuals who fail to file state tax returns or fail to pay state tax liabilities.

---

**Complaint:** 2012-001311 **Hansen, Julie** **DOR HB600**

Hansen, Julie Beth S/C:   
03/03/2012

Suspended 324.010

This license has been suspended by operation of law pursuant to Section 324.010, RSMo, which requires suspension of the professional license of individuals who fail to file state tax returns or fail to pay state tax liabilities.

---

**Complaint:** 2012-001316 **Graves, Steven** **DOR HB600**

Graves, Steven D, III S/C:   
03/03/2012

Suspended 324.010

This license has been suspended by operation of law pursuant to Section 324.010, RSMo, which requires suspension of the professional license of individuals who fail to file state tax returns or fail to pay state tax liabilities.

---

**Board Name****Embalmers & Funeral Directors**

<b>Licensee Name</b>	<b>License #</b>	<b>Orig Issue Date</b>
Revels, Ramona E	2011040266	12/13/2011
Zimmer, Tyson J	2011041487	12/28/2011
Whited, Katybeth Marie	2011041688	12/30/2011
Farmer, Samuel , Jr	2012001638	1/18/2012
Davolt, Stephen W	2012004109	2/3/2012
Branch, Zakee	2012004354	2/6/2012
Eason, Paul Lee	2012009914	3/26/2012
Clause, Dana Elizabeth	2012011943	4/13/2012

**Embalmer**

8

<b>Licensee Name</b>	<b>License #</b>	<b>Orig Issue Date</b>
Farmer, Samuel , Jr	2011038969	11/29/2011
Campbell, Jarod W	2011039310	12/1/2011
Zimmer, Tyson Joshua	2011039718	12/6/2011
Quinn, Shannon Mackenzie	2011040194	12/13/2011
Dush, Harrison Bradley	2011041056	12/21/2011
Livengood, Dustin Ryan	2011041237	12/22/2011
Davolt, Stephen W	2012004107	2/3/2012
Branch, Zakee A	2012004353	2/6/2012
Dishman, James K	2012005886	2/17/2012
Joplin, Michael S	2012006973	2/28/2012
Hathcock, Daniel R	2012007882	3/6/2012
Nolin, Amber Lee	2012007886	3/6/2012
Ford, Donny Lee	2012007888	3/6/2012
Oetting, Stanley	2012008967	3/15/2012
Chappel, Robert W	2012009478	3/21/2012
Bryson, Dawn Louise	2012011843	4/12/2012
Clause, Dana Elizabeth	2012011944	4/13/2012

**Funeral Director**

17

<b>Licensee Name</b>	<b>License #</b>	<b>Orig Issue Date</b>
MD Vernon Undertaking Co, LLC	2011038784	11/23/2011
MD Vernon Undertaking Co., LLC	2011038785	11/23/2011
MD Vernon Undertaking Co, LLC	2011038786	11/23/2011
Roll Enterprises LLC	2011039142	11/29/2011
Slater Funeral Home LLC	2011040297	12/13/2011
Slater Funeral Home LLC	2011040300	12/13/2011
Officer Mortuary LLC	2011040378	12/13/2011
Millard Family Chapels, Inc.	2012001080	1/10/2012
Driver Funeral Service LLC	2012002716	1/26/2012

**Board Name****Embalmers & Funeral Directors**

Licensee Name	License #	Orig Issue Date
Four State Cremation, Inc.	2012008343	3/8/2012
Slider Funeral Home - Grandview Inc	2012009199	3/19/2012

**Funeral Establishment**

11

Licensee Name	License #	Orig Issue Date
Pargman, Avery N	2011038971	11/29/2011
Dush, Harrison B	2012000071	1/3/2012
Barcus, Sheila A	2012002165	1/23/2012
Sanchez, Irving , III	2012002166	1/23/2012
Stingley, Tyler Morrison	2012005091	2/9/2012
Tobias, Corey L	2012005705	2/16/2012
Joplin, Michael Shannon	2012006974	2/28/2012
Click, John E	2012007442	3/2/2012
Whitaker, Calvin W	2012008732	3/13/2012
Whitaker, Christina V	2012008733	3/13/2012
Davolt, Stephen W	2012008735	3/13/2012
Garland, Dominic L	2012008970	3/15/2012
Mayberry, Karl D	2012009041	3/16/2012
Randle, Chrystal Renee	2012011919	4/12/2012
Arft-Goethe, Peggy L	2012012227	4/17/2012
Goethe, Dennis L	2012012228	4/17/2012

**Preneed Agent Funeral Director**

16

Licensee Name	License #	Orig Issue Date
Schonacher, Patricia L	2011040494	12/15/2011
Boyer, Carol S	2011040495	12/15/2011
Stroud, Brandon M	2012003781	2/2/2012
Kimsey, Deborah S	2012004239	2/6/2012
Meyer, Stefanie S	2012004240	2/6/2012
Clifton, Julie A	2012005260	2/14/2012
Edwards, Sara M	2012005477	2/15/2012
Means, Susan P	2012005478	2/15/2012
English, Stephen Clark	2012006781	2/24/2012
Ingram, Tyler W	2012007344	3/1/2012
Shores, Denise D	2012008781	3/13/2012
Kalaiwaa, Francis Kent	2012009059	3/16/2012
Heintz, Paul Bradford	2012010670	4/3/2012
Grzib, John Dudley	2012011621	4/11/2012
Hodges, Nancy Lee	2012011925	4/13/2012
Christy, Susan L	2012012232	4/17/2012

**Preneed Agent**

16

4/18/2012

Original Licenses Issued  
Between 11/23/2011 and 04/19/2012

**Board Name**

---

**Embalmers & Funeral Directors**

<b>Licensee Name</b>	<b>License #</b>	<b>Orig Issue Date</b>
MD Vernon Undertaking Co, LLC	2011038782	11/23/2011
MD Vernon Undertaking Co., LLC	2011038783	11/23/2011
Roll Enterprises LLC	2011039144	11/29/2011
Slater Funeral Home LLC	2011040299	12/13/2011
Officer Mortuary LLC	2011040379	12/13/2011
Millard Family Chapels, Inc.	2012001079	1/10/2012
Driver Funeral Service LLC	2012002717	1/26/2012
Lindley Funeral Homes, Inc.	2012010232	3/28/2012
Lindley Funeral Homes, Inc.	2012010233	3/28/2012

**Preneed Provider** **9**

<b>Licensee Name</b>	<b>License #</b>	<b>Orig Issue Date</b>
MD Vernon Undertaking Company, LLC	2011038781	11/23/2011
Roll Enterprises LLC	2011039143	11/29/2011
Slater Funeral Home LLC	2011040298	12/13/2011
Officer Mortuary LLC	2011040380	12/13/2011
Hedges-Scott LLC	2012011472	4/10/2012

**Preneed Seller** **5**

**Total count for the Embalmers & Funeral Directors board: 82**

SECOND REGULAR SESSION

# SENATE BILL NO. 875

96TH GENERAL ASSEMBLY

---

INTRODUCED BY SENATOR GOODMAN.

Read 1st time February 29, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5946S.011

---

## AN ACT

To repeal section 208.010, RSMo, and to enact in lieu thereof one new section relating to personal funeral trust accounts.

---

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

Section A. Section 208.010, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 208.010, to read as follows:

208.010. 1. In determining the eligibility of a claimant for public  
2 assistance pursuant to this law, it shall be the duty of the division of family  
3 services to consider and take into account all facts and circumstances  
4 surrounding the claimant, including his or her living conditions, earning capacity,  
5 income and resources, from whatever source received, and if from all the facts and  
6 circumstances the claimant is not found to be in need, assistance shall be denied.  
7 In determining the need of a claimant, the costs of providing medical treatment  
8 which may be furnished pursuant to sections 208.151 to 208.158 and 208.162  
9 shall be disregarded. The amount of benefits, when added to all other income,  
10 resources, support, and maintenance shall provide such persons with reasonable  
11 subsistence compatible with decency and health in accordance with the standards  
12 developed by the division of family services; provided, when a husband and wife  
13 are living together, the combined income and resources of both shall be  
14 considered in determining the eligibility of either or both. "Living together" for  
15 the purpose of this chapter is defined as including a husband and wife separated  
16 for the purpose of obtaining medical care or nursing home care, except that the  
17 income of a husband or wife separated for such purpose shall be considered in  
18 determining the eligibility of his or her spouse, only to the extent that such  
19 income exceeds the amount necessary to meet the needs (as defined by rule or

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 regulation of the division) of such husband or wife living separately. In  
21 determining the need of a claimant in federally aided programs there shall be  
22 disregarded such amounts per month of earned income in making such  
23 determination as shall be required for federal participation by the provisions of  
24 the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments  
25 thereto. When federal law or regulations require the exemption of other income  
26 or resources, the division of family services may provide by rule or regulation the  
27 amount of income or resources to be disregarded.

28         2. Benefits shall not be payable to any claimant who:

29         (1) Has or whose spouse with whom he or she is living has, prior to July  
30 1, 1989, given away or sold a resource within the time and in the manner  
31 specified in this subdivision. In determining the resources of an individual,  
32 unless prohibited by federal statutes or regulations, there shall be included (but  
33 subject to the exclusions pursuant to subdivisions (4) and (5) of this subsection,  
34 and subsection 5 of this section) any resource or interest therein owned by such  
35 individual or spouse within the twenty-four months preceding the initial  
36 investigation, or at any time during which benefits are being drawn, if such  
37 individual or spouse gave away or sold such resource or interest within such  
38 period of time at less than fair market value of such resource or interest for the  
39 purpose of establishing eligibility for benefits, including but not limited to  
40 benefits based on December, 1973, eligibility requirements, as follows:

41         (a) Any transaction described in this subdivision shall be presumed to  
42 have been for the purpose of establishing eligibility for benefits or assistance  
43 pursuant to this chapter unless such individual furnishes convincing evidence to  
44 establish that the transaction was exclusively for some other purpose;

45         (b) The resource shall be considered in determining eligibility from the  
46 date of the transfer for the number of months the uncompensated value of the  
47 disposed of resource is divisible by the average monthly grant paid or average  
48 Medicaid payment in the state at the time of the investigation to an individual  
49 or on his or her behalf under the program for which benefits are claimed,  
50 provided that:

51             a. When the uncompensated value is twelve thousand dollars or less, the  
52 resource shall not be used in determining eligibility for more than twenty-four  
53 months; or

54             b. When the uncompensated value exceeds twelve thousand dollars, the  
55 resource shall not be used in determining eligibility for more than sixty months;

56 (2) The provisions of subdivision (1) of this subsection shall not apply to  
57 a transfer, other than a transfer to claimant's spouse, made prior to March 26,  
58 1981, when the claimant furnishes convincing evidence that the uncompensated  
59 value of the disposed of resource or any part thereof is no longer possessed or  
60 owned by the person to whom the resource was transferred;

61 (3) Has received, or whose spouse with whom he or she is living has  
62 received, benefits to which he or she was not entitled through misrepresentation  
63 or nondisclosure of material facts or failure to report any change in status or  
64 correct information with respect to property or income as required by section  
65 208.210. A claimant ineligible pursuant to this subsection shall be ineligible for  
66 such period of time from the date of discovery as the division of family services  
67 may deem proper; or in the case of overpayment of benefits, future benefits may  
68 be decreased, suspended or entirely withdrawn for such period of time as the  
69 division may deem proper;

70 (4) Owns or possesses resources in the sum of one thousand dollars or  
71 more; provided, however, that if such person is married and living with spouse,  
72 he or she, or they, individually or jointly, may own resources not to exceed two  
73 thousand dollars; and provided further, that in the case of a temporary assistance  
74 for needy families claimant, the provision of this subsection shall not apply;

75 (5) Prior to October 1, 1989, owns or possesses property of any kind or  
76 character, excluding amounts placed in an irrevocable prearranged funeral or  
77 burial contract under chapter 436, or has an interest in property, of which he or  
78 she is the record or beneficial owner, the value of such property, as determined  
79 by the division of family services, less encumbrances of record, exceeds  
80 twenty-nine thousand dollars, or if married and actually living together with  
81 husband or wife, if the value of his or her property, or the value of his or her  
82 interest in property, together with that of such husband and wife, exceeds such  
83 amount;

84 (6) In the case of temporary assistance for needy families, if the parent,  
85 stepparent, and child or children in the home owns or possesses property of any  
86 kind or character, or has an interest in property for which he or she is a record  
87 or beneficial owner, the value of such property, as determined by the division of  
88 family services and as allowed by federal law or regulation, less encumbrances  
89 of record, exceeds one thousand dollars, excluding the home occupied by the  
90 claimant, amounts placed in an irrevocable prearranged funeral or burial contract  
91 under chapter 436, one automobile which shall not exceed a value set forth by

92 federal law or regulation and for a period not to exceed six months, such other  
93 real property which the family is making a good-faith effort to sell, if the family  
94 agrees in writing with the division of family services to sell such property and  
95 from the net proceeds of the sale repay the amount of assistance received during  
96 such period. If the property has not been sold within six months, or if eligibility  
97 terminates for any other reason, the entire amount of assistance paid during such  
98 period shall be a debt due the state;

99 (7) Is an inmate of a public institution, except as a patient in a public  
100 medical institution.

101 3. In determining eligibility and the amount of benefits to be granted  
102 pursuant to federally aided programs, the income and resources of a relative or  
103 other person living in the home shall be taken into account to the extent the  
104 income, resources, support and maintenance are allowed by federal law or  
105 regulation to be considered.

106 4. In determining eligibility and the amount of benefits to be granted  
107 pursuant to federally aided programs[,]:

108 (1) The value of burial lots or any amounts placed in an irrevocable  
109 prearranged funeral or burial contract under chapter 436 shall not be taken into  
110 account or considered an asset of the burial lot owner or the beneficiary of an  
111 irrevocable prearranged funeral or funeral contract. For purposes of this section,  
112 "burial lots" means any burial space as defined in section 214.270 and any  
113 memorial, monument, marker, tombstone or letter marking a burial space. If the  
114 beneficiary, as defined in chapter 436, of an irrevocable prearranged funeral or  
115 burial contract receives any public assistance benefits pursuant to this chapter  
116 and if the purchaser of such contract or his or her successors in interest transfer,  
117 amend, or take any other such actions regarding the contract so that any person  
118 will be entitled to a refund, such refund shall be paid to the state of Missouri  
119 with any amount in excess of the public assistance benefits provided under this  
120 chapter to be refunded by the state of Missouri to the purchaser or his or her  
121 successors. In determining eligibility and the amount of benefits to be granted  
122 under federally aided programs, the value of any life insurance policy where a  
123 seller or provider is made the beneficiary or where the life insurance policy is  
124 assigned to a seller or provider, either being in consideration for an irrevocable  
125 prearranged funeral contract under chapter 436, shall not be taken into account  
126 or considered an asset of the beneficiary of the irrevocable prearranged funeral  
127 contract; and

128           (2) The value of any funds up to nine thousand nine hundred  
129 ninety-nine dollars, placed into an irrevocable personal funeral trust  
130 account where the trustee of the trust account is a state or federally  
131 chartered financial institution authorized to exercise trust powers in  
132 the state of Missouri, shall not be taken into account or considered an  
133 asset of the person whose funds are so deposited if the use of such  
134 funds is restricted to the burial, funeral, preparation of the body or  
135 other final disposition of the person whose funds were deposited into  
136 the trust account. No person or entity shall charge more than ten  
137 percent of the total amount deposited into a personal funeral trust in  
138 order to create or set up the trust, and any fees charged for the  
139 maintenance of the trust shall not exceed three percent of the trust  
140 assets annually. Trustees may commingle funds from two or more  
141 personal funeral trust accounts so long as accurate books and records  
142 are kept as to the value, deposits and disbursements of each individual  
143 depositor's funds. Trustees are to use the prudent investor standard as  
144 to the investment of any funds placed into a personal funeral trust. If  
145 the person whose funds are deposited into a personal funeral trust  
146 account receives any public assistance benefits pursuant to this  
147 chapter and any funds in the trust account are, for any reason, not  
148 spent on the burial, funeral, preparation of the body or other final  
149 disposition of the person whose funds were deposited into the trust  
150 account, such funds shall be paid to the state of Missouri with any  
151 amount in excess of the public assistance benefits provided under this  
152 chapter to be refunded by the state of Missouri to the person who  
153 received public assistance benefits or his or her successors. No  
154 contract with any cemetery, funeral establishment, or any provider or  
155 seller shall be required in regards to funds placed into a personal  
156 funeral trust account as set out in this subdivision.

157           5. In determining the total property owned pursuant to subdivision (5) of  
158 subsection 2 of this section, or resources, of any person claiming or for whom  
159 public assistance is claimed, there shall be disregarded any life insurance policy,  
160 or prearranged funeral or burial contract, or any two or more policies or  
161 contracts, or any combination of policies and contracts, which provides for the  
162 payment of one thousand five hundred dollars or less upon the death of any of the  
163 following:

164           (1) A claimant or person for whom benefits are claimed; or

165           (2) The spouse of a claimant or person for whom benefits are claimed with  
166 whom he or she is living. If the value of such policies exceeds one thousand five  
167 hundred dollars, then the total value of such policies may be considered in  
168 determining resources; except that, in the case of temporary assistance for needy  
169 families, there shall be disregarded any prearranged funeral or burial contract,  
170 or any two or more contracts, which provides for the payment of one thousand five  
171 hundred dollars or less per family member.

172           6. Beginning September 30, 1989, when determining the eligibility of  
173 institutionalized spouses, as defined in 42 U.S.C. Section 1396r-5, for medical  
174 assistance benefits as provided for in section 208.151 and 42 U.S.C. Sections  
175 1396a, et seq., the division of family services shall comply with the provisions of  
176 the federal statutes and regulations. As necessary, the division shall by rule or  
177 regulation implement the federal law and regulations which shall include but not  
178 be limited to the establishment of income and resource standards and  
179 limitations. The division shall require:

180           (1) That at the beginning of a period of continuous institutionalization  
181 that is expected to last for thirty days or more, the institutionalized spouse, or  
182 the community spouse, may request an assessment by the division of family  
183 services of total countable resources owned by either or both spouses;

184           (2) That the assessed resources of the institutionalized spouse and the  
185 community spouse may be allocated so that each receives an equal share;

186           (3) That upon an initial eligibility determination, if the community  
187 spouse's share does not equal at least twelve thousand dollars, the  
188 institutionalized spouse may transfer to the community spouse a resource  
189 allowance to increase the community spouse's share to twelve thousand dollars;

190           (4) That in the determination of initial eligibility of the institutionalized  
191 spouse, no resources attributed to the community spouse shall be used in  
192 determining the eligibility of the institutionalized spouse, except to the extent  
193 that the resources attributed to the community spouse do exceed the community  
194 spouse's resource allowance as defined in 42 U.S.C. Section 1396r-5;

195           (5) That beginning in January, 1990, the amount specified in subdivision  
196 (3) of this subsection shall be increased by the percentage increase in the  
197 Consumer Price Index for All Urban Consumers between September, 1988, and  
198 the September before the calendar year involved; and

199           (6) That beginning the month after initial eligibility for the  
200 institutionalized spouse is determined, the resources of the community spouse

201 shall not be considered available to the institutionalized spouse during that  
202 continuous period of institutionalization.

203 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible  
204 for the periods required and for the reasons specified in 42 U.S.C. Section 1396p.

205 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted  
206 pursuant to the provisions of section 208.080.

207 9. Beginning October 1, 1989, when determining eligibility for assistance  
208 pursuant to this chapter there shall be disregarded unless otherwise provided by  
209 federal or state statutes the home of the applicant or recipient when the home is  
210 providing shelter to the applicant or recipient, or his or her spouse or dependent  
211 child. The division of family services shall establish by rule or regulation in  
212 conformance with applicable federal statutes and regulations a definition of the  
213 home and when the home shall be considered a resource that shall be considered  
214 in determining eligibility.

215 10. Reimbursement for services provided by an enrolled Medicaid provider  
216 to a recipient who is duly entitled to Title XIX Medicaid and Title XVIII Medicare  
217 Part B, Supplementary Medical Insurance (SMI) shall include payment in full of  
218 deductible and coinsurance amounts as determined due pursuant to the  
219 applicable provisions of federal regulations pertaining to Title XVIII Medicare  
220 Part B, except for hospital outpatient services or the applicable Title XIX cost  
221 sharing.

222 11. A "community spouse" is defined as being the noninstitutionalized  
223 spouse.

224 12. An institutionalized spouse applying for Medicaid and having a spouse  
225 living in the community shall be required, to the maximum extent permitted by  
226 law, to divert income to such community spouse to raise the community spouse's  
227 income to the level of the minimum monthly needs allowance, as described in 42  
228 U.S.C. Section 1396r-5. Such diversion of income shall occur before the  
229 community spouse is allowed to retain assets in excess of the community spouse  
230 protected amount described in 42 U.S.C. Section 1396r-5.

✓

**Sebastian, Sandy**

---

**From:** Darlene Russell [darussell13@hotmail.com]  
**Sent:** Monday, March 05, 2012 7:48 AM  
**To:** Sebastian, Sandy  
**Cc:** Hayes, Lori  
**Subject:** Conference Call Today  
**Importance:** High

Good morning, Sandy:

I gave Lori some suggested language on Friday dealing with waiving the \$36.00 contract fee in certain cases.

We have made one small change in the language. Below is the language containing the revision. Would you please share this with Archie and Jim today to see what their thoughts are before the full board meets this month.

Also, do you anticipate any open discussion today on the conference call under your Executive Directors Report or Legal Counsel Report?

Here is the language:

**"The \$36.00 contract fee is waived and will not be charged for preneed contracts if the following conditions are met:**

**The individual for whom the preneed contract is being purchased for is applying for eligibility under Chapter 208 and the insurance policy being used to fund such preneed contract was purchased at least one calendar year prior."**

*Darlene Russell  
Regional Sales Director  
CFL Preneed  
(573-821-6340)*

## Missouri Funeral Trust issues with proposed rule on Abandonment of Funds

- .Overall, the rule does not show an understanding of how a preneed plan works, especially with a Trust. The purchaser has prepaid for a funeral for a beneficiary (that may not be the same person as the purchaser) at a particular funeral home. Yes the purchaser has some statutory (but very limited) rights to cancel and transfer the contract, but that does not change the underlying transaction. The funds are trusted so that they will be available to pay for the selected goods and services at the time of need. In short, the money is not trusted for the purchaser as much as it is trusted to protect the transaction. Clearly, the laws regarding unjust enrichment would prevent a funeral home from gaining the benefit of a preneed contract where they did not do the funeral (in much the same way as the courts have ruled recently that – regardless of the sales tax laws which provided that refunds of improperly collect sales taxes go to the merchant – it would be unjust for a funeral home to keep sales tax refunds on burial vaults). Moreover, the purchaser of a preneed contract, the beneficiary of the contract, the heirs of either of them and who takes financial responsibility for the final disposition (thereby becoming the “next-of-kin” under Chapter 194) can vary widely from transaction to transaction. This apparent lack of understanding within the proposed rule creates the following issues:
- 1.This rule would be very expensive for small business. MFT, for example, has thousands of active contracts. “Good faith” is not defined, which is troublesome in itself, but even a simple mailing each year would cost MFT, in postage alone, thousands and thousands of dollars annually. Add to that the personnel reporting, record-keeping and other expenses that would have to be passed onto small funeral homes and this is a significant cost to small businesses and consumers.
  - 2.It is NOT the *beneficiary's* money! It is the PURCHASER'S money. Now it is true that the beneficiary and the purchaser can be the same person, but often not. You can buy a preneed for your mother. If that contract is canceled in any way the refund goes back to you, the purchaser, not the beneficiary. Therefore even if the funds are considered “abandoned property” it should go back to the purchaser not the beneficiary.
  3. If the beneficiary *has* died, the funds should go to whomever performed the funeral or other final disposition. If a beneficiary has passed away, somebody, somewhere has handled the final disposition. The proper procedure, in most instances, is for the funds to be paid to whoever performed the final disposition, then that funeral home can give a refund to whomever paid for the final disposition. EXAMPLE: “Joe” had a preneed but didn't tell anybody and then moved away from his local funeral home before he dies. His sole heir is “Mary” his niece. When Joe dies nobody realizes there is a preneed (and Mary does not want to pay anything) so “Bill,” Joe's army buddy, pays for the funeral. If the preneed money goes to the estate of Joe, then Bill is stuck with the bill, Mary gets a windfall and Joe's final wishes as to who would pay for his funeral have not been honored. The way it should happen is, when the issue is discovered, the funeral home is paid then the funeral home can then give “Joe” a refund.
  4. Banks can't ignore the provisions of their Trust or ignore how an account was titled. If there was a CD titled “Mary Smith P.O.D. to ABC Funeral Home” and no claim has been made, the bank can't pay the estate when it finds out Mary Smith died, it must pay “ABC Funeral Home.” Of course, if “ABC Funeral Home” did not do the funeral, then “ABC Funeral home” would be unjustly enriched unless it either forwarded the funds to the purchaser or the funeral home that did the funeral.

5. Nothing in the law requires that a provider make a claim upon a Seller within any particular period of time. The rule does not take into account where the provider did, in fact, provide the funeral but, for whatever reason, never made a claim upon the seller. This rule then would violate the purchaser's rights to the funds as set out in chapter 436 and the contract between the purchaser and seller as required in 436.420
6. The rule does not take into account that, prior to August 28, 2008, the law provided that the purchaser could designate a beneficiary of the purchaser in the event of the purchaser's death.
7. The rule violates the rights of the purchaser under chapter 436 as it is the purchaser that controls the contract and can request a refund, this rule would supersede the purchaser's rights if the beneficiary died but, for whatever reason, no claim by a provider had yet been made.
8. In the event that the purchaser and has died (whether the purchaser is also the beneficiary or not) or is incapacitated, then, as worded, the rule conflicts with the provisions of 438.480 that provides that spells out who controls the contract and to whom payments should be made.
9. As worded the rule would violate the provisions of 436.430 (10) which state that the earnings of a Trust belong to the seller.
10. As worded the rule would violate the provisions of 436.456(4) which states that if a purchaser dies before a guaranteed installment contract is paid in full, the family can either pay the difference or has a credit at that original provider without any time limit on when this takes place.
11. The rule could force a seller of provider to take a loss on a contract rather than give them the flexibility to leave funds in a trust or other account until such time as opportune.
12. Assuming any funds in a Trust or account would be considered "unclaimed property," this rule is not necessary and conflicts with the existing unclaimed property statutes. Businesses in Missouri are already required to use "due diligence" in determining if there is property that has been unclaimed for FIVE years. There is a procedure under current law on how to handle such property and Banks, in particular, are examined on this issue through their normal course of business.

**Proposed Rule:**

**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.**

## ***FY2012 Inspections***

As of April 19, 2012, inspectors have written 85 violations at 59 establishments.

Top Five Violations found:

1. Backflow-32
2. Register Log- 13
3. Licenses Not Displayed- 9
4. Preneed Contract issues- 8
5. Problems w/Purchase Agreements: 5

## **FY2011 Inspections**

Inspectors wrote 160 violations at 112 establishments.

Top five violations found:

1. Backflow- 40
2. Preneed Contracts- 31
3. Register Log- 19
4. Licenses Not Displayed- 18
5. Issues with the Embalming Authorizations- 9

**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. ] **If an applicant does not meet the requirements for licensure within six months from the date of the application, the applicant shall be required to file a new application and no fees previously paid previously shall apply toward the application fee.**

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.

## **Applicability of law.**

333.310. The provisions of sections 333.310 to 333.340 shall not apply to a cemetery operator **licensed pursuant to 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;] 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 an exemption pursuant to this section and section 436.410, shall, concurrent with the application for renewal of licensure pursuant to section 214.275, file a statement of exemption with the State Board of Embalmers and Funeral Directors and Office of Endowed Care Cemeteries. If requested by the State Board of Embalmers and Funeral Directors, the cemetery operator shall provide proof of licensure pursuant to section 214.275.**

## **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; **and possess a high school diploma, a general education equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board;**

(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 board may issue a temporary permit to an applicant who had made a prima facie showing that the applicant meets all of the requirements for such registration. The temporary permit shall be effective only until the applicant submits satisfactory evidence of successfully passing the Missouri law examination. In no event shall such temporary permit be in effect for more than six months after the date of its issuance and shall not be reissued to the same applicant. The holder of a temporary permit which has not expired, or been suspended or revoked, shall be deemed to be the holder of a registration issued pursuant to 333.325 until such temporary permit expires, is terminated or is suspended or revoked.**

**(7) If an applicant does not meet the requirements for registration within one year from the date of application, the applicant shall be required to file a new application and no fees paid previously shall apply toward the registration fee.**

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) If an applicant does not meet the requirements for registration within one year from the date of application, the applicant shall be required to file a new application and no fees paid previously shall apply toward the registration fee.**

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.

**Refusal of registration, when--complaint procedure--injunctive relief authorized, when--reapplication after revocation, when.**

333.330. 1. The board may refuse to issue any certificate of registration or authority, permit, or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit, or license required by this chapter, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and 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, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense involving a controlled substance, or for any offense an essential element of which is fraud, dishonesty, or an act of violence;

(3) Use of fraud, deception, misrepresentation, or bribery 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;

(4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant thereto;

(7) Impersonation of any person holding a certificate of registration or authority, permit, or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession [regulated by this chapter] granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state or **upon a finding by any state, local or federal agency or court that the holder of any professional license has engaged in any conduct involving any act of violence, fraud or dishonesty;**

- (9) A person is finally adjudged mentally incompetent by a court of competent jurisdiction;
- (10) Misappropriation or theft of preneed funds;
- (11) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter regulating preneed who is not licensed or registered and currently eligible to practice thereunder;
- (12) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;
- (13) Failure to display a valid certificate or license if so required by this chapter regulating preneed or any rule established thereunder;
- (14) Violation of any professional trust or confidence;
- (15) Making or filing any report required by sections 436.400 to 436.520 regulating preneed which the licensee knows to be false or knowingly failing to make or file a report required by such sections;
- (16) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or
- (17) Willfully and through undue influence selling a funeral;
- (18) Willfully and through undue influence selling a preneed contract;
- (19) Violation of any of the provisions of chapter 193, 194, 407, or 436;
- (20) Presigning a death certificate or signing a death certificate on a body not yet embalmed by, or under the personal supervision of, the licensee;
- (21) Failure to execute and sign the death certificate on a body embalmed by, or under the personal supervision of, a licensee;
- (22) Failure to refuse to properly guard against contagious, infectious, or communicable diseases or the spread thereof;
- (23) Refusing to surrender a dead human body upon request by the next of kin, legal representative, or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke any certificate of registration or authority, permit, or license issued under this chapter.

4. In addition to all other powers and authority granted by the board, the board may seek an injunction, restraining order or other order from the circuit court of Cole County to enjoin any seller from engaging in preneed sales upon a showing by the board that the seller has failed to make deposits into the preneed trust, has obtained funds out of the trust to which the seller is not entitled or has exercised influence or control over the trustee or has engaged in any other act that has resulted in a shortage in any preneed trust or joint account which exceeds twenty percent of the total amount required to be held or deposited into the trust or joint account under the provisions of sections 436.400 to 436.520. In addition to the power to enjoin for this conduct, the circuit court of Cole County shall also be entitled to suspend or revoke the preneed seller's license and any other license issued pursuant to this chapter, held by the seller.

5. An individual whose certificate of registration or authority, permit, or license has been revoked shall wait three years from the date of revocation to apply for any certificate of registration or authority, permit, or license under this chapter, either as an individual or as a manager, director, shareholder, or partner of any business entity. Any certificate of registration or authority, permit, or license shall be issued at the discretion of the board after compliance with all the requirements of this chapter relative to the licensing or registration of the applicant for the first time.

6. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 333.335.

**Applicability exceptions.**

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

## **Trust-funded preneed contract requirements.**

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

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

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

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

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

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

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

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

9. All expenses of establishing and administering a preneed trust, including trustee's fees, legal and accounting fees, investment expenses, and taxes may be paid from income generated from the investment of the trust assets. Principal of the trust shall not be used to pay the costs of administration. If the income of the trust is insufficient to pay the costs of administration, those costs shall be paid as per the written agreements between the seller, provider and the trustee.

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

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

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

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

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

**Contract form, requirements--voidability of contract--waiver of contract benefits for public assistance recipients.**

436.425. 1. All preneed contracts shall be sequentially numbered and in writing and in a font type and size that are easily read, and shall clearly and conspicuously:

- (1) Include the name, address and phone number of the purchaser, beneficiary, provider and seller;
- (2) Identify the name, address, phone and license number of the provider and the seller;
- (3) Set out in detail the disposition, funeral and burial services and facilities, and merchandise requested;
- (4) Identify whether the contract is trust funded, insurance funded, or joint account funded;
- (5) Include notice that the cancellation of the contract shall not cancel any life insurance funding the contract, and that insurance cancellation is required to be made in writing to the insurer;
- (6) Include notice that the purchaser will only receive the cash surrender value of any insurance policy funding the contract if cancelled after a designated time, which may be less than the amount paid into the policy;
- (7) Include notice that the board provides by rule that the purchaser has the right to transfer the provider designation to another provider;
- (8) Prominently identify whether the contract is revocable or irrevocable;
- (9) Set forth the terms for cancellation by the purchaser or by the seller;
- (10) Identify any preneed trust or joint account into which contract payments shall be deposited, including the name and address of the corresponding trustee or financial institution;
- (11) Include the name, address and phone number of any insurance company issuing an insurance policy used to fund the preneed contract;
- (12) Include the name and signature of the purchaser, the provider or its authorized representative, the preneed agent's **name and registration number** responsible for the sale of the contract, and the seller or its authorized representative;
- (13) Prominently identify whether the contract is a guaranteed or nonguaranteed contract;
- (14) Include any applicable consumer disclosures required by the board by rule; and
- (15) Include a disclosure on all guaranteed installment payment contracts informing the purchaser what will take place in the event the beneficiary dies before all installments have been paid, including an explanation of what will be owed by the purchaser for the funeral services in such an event;
- (16) Comply with the provisions of sections 436.400 to 436.520 or any rule promulgated thereunder.

2. A preneed contract shall be voidable and unenforceable at the option of the purchaser, or the purchaser's legal representative, if it is determined in a court of competent jurisdiction that the contract is not in compliance with this section or not issued by a seller licensed under chapter 333, or if the provider has not consented to serve as provider at the time the contract was executed. Upon exercising the option by written notice to the seller and provider, all payments made under such contract shall be recoverable by the purchaser, or the purchaser's legal representative, from the contract seller, trustee, or other payee thereof.
3. A beneficiary who seeks to become eligible to receive public assistance under chapter 208 or any other applicable state or federal law may irrevocably waive their rights to receive any refund or payment of any moneys from the funds or insurance used to fund their preneed contract. Such irrevocable waiver may be executed at any time and shall be in writing, signed and dated by the beneficiary and shall be delivered to the seller and any applicable trustee, financial institution or insurance company.
4. All purchasers shall have the right as provided in this chapter to cancel or rescind a revocable preneed contract and transfer any preneed contract with or without cause.
5. A preneed contract, shall not be changed from a trust-funded, insurance-funded, or joint account-funded preneed contract without the written consent of the purchaser.

**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.