State Board of Embalmers and Funeral Directors
Strategic Planning Meeting

August 4-5, 2015

Lodge of Four Seasons
315 Four Season Drive
Lake Ozark MO 65049

OPEN MINUTES

Emergency Relocation
The meeting was originally posted to be held at Country Club Hotel & Spa, 250 Racquet Club Drive, Lake Ozark, Missouri 65049. It was necessary to relocate the meeting to a different location with less than 24 hours notice, pursuant to section 610.020.2. and .4, RSMo, "….the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes", because of the physical premises of the original location was unacceptable. Notice of the change of location was provided at 5:03pm on August 3, 2015 via email distribution through GovDelivery service and the County Club Hotel & Spa was requested to post such at their physical location.

The meeting of the State Board of Embalmers and Funeral Directors was called to order by Collin Follis, chairman, at 1:02 p.m.

Roll Call
Board Members Present
Collin Follis, Chairman
Gary Fraker, Vice Chairman – participated intermittently – motions reflect presence
Eric Pitman, Board Member
James Reinhard, Board Member
Archie Camden, Public Board Member

Board Members Not Present
Jerald Dickey, Secretary

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

Approval of Agenda
A motion was made by Archie Camden and seconded by James Reinhard to approve the open agenda. Motion carried with Eric Pitman voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Review and Discussion of Draft Legislative Proposals (Attachment A)
A motion was made by Archie Camden and seconded by Eric Pitman to approve the legislative proposal consent agent. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 333.061
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 333.081
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft with the addition of #3. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 333.111
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 333.325
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft with the removal of 4(2). Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 333.340
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.410
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.425
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.430
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft with the removal of 3 and 4 and maintaining addition to 10. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.435
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft with the deletion of the added language in 4. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.440
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft with “upon request” added to the end of the 2.(4) sentence. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.460
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.500
A motion was made by Archie Camden and seconded by Eric Pitman to approve the draft with the deletion of the second sentence in (2) regarding keeping license current. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Section 436.525
Item was not reviewed due to lack of quorum.

Move to Closed

A motion was made by Eric Pitman and seconded by Archie Camden to move into closed session pursuant to numbers 1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with James Reinhard voting in favor with no votes in opposition. Gary Fraker and Jerald Dickey were not present.

Review and Discussion of Proposed Regulations (Attachment B)
Item was not discussed on August 4, 2015 but tabled to August 5, 2015 and was not reviewed because board did not convene on August 5, 2015 due to lack of quorum.

Review and Discussion of Proposed Financial Examination Process (Attachment C)
Item was not discussed because board did not convene on August 5, 2015 due to lack of quorum.

General Board Discussion
What are the top 2 most important topics that the board and staff should address over the next year?
Item was not discussed because board did not convene on August 5, 2015 due to lack of quorum.

The members of the public present had discussions with the board members present regarding the agenda items but no decisions were made.

Adjourn
Board did not have quorum to proceed with the meeting on August 5, 2015 and therefore no motion was made to adjourn.

Executive Director Sandy Sebastian

Approved by the board on 3-29-30-2016

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

Legislative Proposal Consent Agenda
August 4-5, 2015

1. Section 333.021
   RECOMMENDATION: Approve as drafted/proposed

2. Section 333.041
   RECOMMENDATION: Approve as drafted/proposed

3. Section 333.042
   RECOMMENDATION: Approve as drafted/proposed

4. Section 333.051
   RECOMMENDATION: Approve as drafted/proposed

5. Section 333.061
   RECOMMENDATION: Table to board

6. Section 333.081
   RECOMMENDATION: Table to board

7. Section 333.111
   RECOMMENDATION: Table to board

8. Section 333.310
   RECOMMENDATION: Approve as drafted/proposed

9. Section 333.315
   RECOMMENDATION: Approve as drafted/proposed

10. Section 333.320
    RECOMMENDATION: Approve as drafted/proposed

11. Section 333.325
    RECOMMENDATION: Table to board

12. Section 333.330
    RECOMMENDATION: Approve as drafted/proposed

13. Section 333.340
    RECOMMENDATION: Table to board

14. Section 436.410
    RECOMMENDATION: Table to board.

15. Section 436.425
    RECOMMENDATION: Table to board

16. Section 436.430
    RECOMMENDATION: Table to board

17. Section 436.435
    RECOMMENDATION: Table to board

18. Section 436.440
    RECOMMENDATION: Table to board
    .
19. Section 436.460
    RECOMMENDATION: Table to board

20. Section 436.500
    RECOMMENDATION: Table to board

21. Section 436.525
    RECOMMENDATION: Table to board

Unlicensed person not to engage in practice of embalming or funeral directing.

333.021. 1. No person **or entity** shall engage in the practice of embalming**, funeral directing or act as a preneed agent, seller, provider or funeral establishment** in this state unless **[he has a] that person or entity holds the appropriate** license**(s)** as required by this chapter.

2. No person **or entity** shall **[engage in the practice of funeral directing unless he has a license issued under this chapter nor shall any person]** use in connection with his name or business any of the words "undertaker", "mortician", "funeral home", "funeral parlor", "funeral chapel", "funeral consultant", "funeral director" or other title implying that he is in the business **of acting as a funeral director, embalmer, establishment, seller or provider, as** defined **[as funeral directing]** herein, unless **[he or the individual having control, supervision or management of his business is duly licensed to practice funeral directing in this state] the person or entity holds a valid license to act as such as required by this chapter**.

License, application for [Qualifications of] embalmer applicants—qualifications for, examinations—licenses[--board may waive requirements in certain cases].

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

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

(2) A person of good moral character.

2.] Every person [desiring to enter the profession of embalming dead human bodies within the state of Missouri and] who is enrolled in a program accredited by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board **and needs to complete an embalming practicum in Missouri** shall [register with] **apply to** the board **for a license** as a practicum student [upon] **on** the form provided by the board **and pay the current fee established by the board before beginning any such practicum**. After [such registration] **receipt of a practicum license**, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum. [The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.]

[3] **2.** Each applicant for a license to practice embalming shall **submit to the board a written application on forms furnished by the board, pay the current application fees, and shall** furnish evidence to establish to the satisfaction of the board that he or she:

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

(2) Is a person of good moral character;

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

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

(5) **Has arranged to serve an apprenticeship under the supervision of a Missouri licensed embalmer in a Missouri licensed funeral establishment licensed for embalming. Upon issuance of an apprentice license,**

the apprentice licensee shall devote at least twelve consecutive months and at least 30 hours per week to his or her duties as an apprentice. [Has been employed full time in funeral service in a licensed funeral establishment and] **The apprentice licensee shall submit proof to the board, on forms provided by the board, that the he or she** has personally embalmed at least twenty-five dead human bodies under the personal supervision of [an] **a Missouri licensed** embalmer [who holds a current and valid Missouri embalmer's license or an embalmer who holds a current and valid embalmer's license in a state with which the Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than twelve consecutive months]. "Personal supervision" means that the licensed embalmer shall be physically present during the entire embalming process in the first six months of the apprenticeship period and physically present at the beginning of the embalming process and available for consultation and personal inspection within a period of not more than one hour in the remaining six months of the apprenticeship period. [All transcripts and other records filed with the board shall become a part of the board files.]**; and**

(6) Meets all other requirements for licensure as required by statute or rule or regulation.

[4. If the applicant does not complete the application process within the five years after his or her completion of an approved program, then he or she must file a new application and no fees paid previously shall apply toward the license fee.

5. Examinations required by this section and section 333.042 shall be held at least twice a year at times and places fixed by the board. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.]

3. The applicant shall submit proof of successful completion of the Missouri Law examination of the Conference of Funeral Service Examining Boards, or successor organization. The board shall by rule and regulation prescribe the standard for successful completion of the examination.

[6] **4**. Upon establishment of his or her qualifications as specified by this section [or section 333.042], the board shall issue to the applicant a license to practice [funeral directing or] embalming [, as the case may require,] and shall register the applicant as a duly licensed [funeral director or a duly licensed] embalmer. [Any person having the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming.]

5. If an applicant does not complete all requirements for embalming licensure within twenty-four consecutive months from the date of his or her application, the application for licensure shall be cancelled. The applicant shall be required to file a new application, pay applicable fees, and fulfill the requirements for licensure outlined in this section. No previous apprenticeship shall be considered for the new application.

6. Any person meeting the qualifications required by this section and section 333.042 may be granted both a license to practice funeral directing and to practice embalming, upon proper application and paying applicable fees.

[7. The board shall, upon request, waive any requirement of this chapter and issue a temporary funeral director's license, valid for six months, to the surviving spouse or next of kin or the personal representative of a licensed funeral director, or to the spouse, next of kin, employee or conservator of a licensed funeral director disabled because of sickness, mental incapacity or injury.]

(L. 1965 p. 522 § 4, A.L. 1969 H.B. 56, A.L. 1977 S.B. 6, A.L. 1981 S.B. 16, A.L. 1983 S.B. 44 & 45, A.L. 1993 S.B. 27, A.L. 1998 S.B. 854, A.L. 2001 H.B. 48, A.L. 2011 H.B. 265 merged with S.B. 325)

License, [A]**application for funeral director applicants –** [and examination fees for funeral directors,] **apprenticeship requirements--examination**s [content for applicants--apprenticeship duties--appearance before board]**--limited license only for cremation--exemptions from apprenticeship.**

333.042. 1. [Every person desiring to enter the profession of funeral directing in this state] **Each applicant for a license to practice funeral directing** shall [make] **submit to the board a written** application **on forms furnished by the board,** [with the state board of embalmers and funeral directors and] pay the current application [and examination] fees**, and shall furnish evidence to establish to the satisfaction of the board that he or she:** [. Except as otherwise provided in section 41.950, applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for at least twelve consecutive months in a funeral establishment licensed for the care and preparation for burial and transportation of the human dead in this state or in another state which has established standards for admission to practice funeral directing equal to, or more stringent than, the requirements for admission to practice funeral directing in this state. The applicant shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the board, on forms provided by the board, that the applicant has arranged and conducted ten funeral services during the applicant's apprenticeship under the supervision of a Missouri licensed funeral director. Upon completion of the apprenticeship, the applicant shall appear before the board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral home licensing, preneed funeral contracts and the care, custody, shelter, disposition and transportation of dead human bodies. Upon acceptance of the application and fees by the board, an applicant shall have twenty-four months to successfully complete the requirements for licensure found in this section or the application for licensure shall be cancelled.]

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

(2) A person of good moral character[.];

(3) [Except as otherwise provided in section 41.950, applicants not entitled to a license pursuant to section 333.051 s]**Has arranged to serve an apprenticeship of at least twelve consecutive months in a Missouri licensed funeral establishment licensed for the care and preparation for burial and transportation of the human dead. Upon issuance of an apprentice license, the apprentice licensee shall devote at least fifteen hours per week to his or her duties as an apprentice under the supervision of a Missouri licensed funeral director. The apprentice licensee shall submit proof to the board, on forms provided by the board, that he or she has arranged and conducted ten funeral services during the apprenticeship under the supervision of a Missouri licensed funeral director[.]**;

(4) Upon completion of the apprenticeship, the applicant shall submit proof of successful completion of the National Board Funeral Service Arts examination or the Missouri Funeral Service Arts examination, and the Missouri Law examination of the Conference of Funeral Service Examining Boards, or successor organization. **The board shall by rule and regulation prescribe the standard for successful completion of the examinations; and**

(5) Meets all other requirements for licensure as required by statute or rule or regulation.

2. If a person applies for a limited license to work only in a funeral establishment which is licensed only for cremation, including transportation of dead human bodies to and from the funeral establishment, he or she shall make application, pay the current application [and examination] fee**s** and successfully complete the Missouri law examination. He or she shall be exempt from the twelve **consecutive [**-] month apprenticeship required by subsection 1 of this section and the [practical] **National Board Funeral Service Arts examination or the Missouri Funeral Service Arts** examination before the board. If a person has a limited license issued pursuant

to this subsection, he or she may obtain a full funeral director's license if he or she fulfills the apprenticeship and successfully completes the **required** examination.

3. If an applicant does not complete all requirements for funeral director licensure within twenty-four consecutive months from the date of his or her application the application for licensure shall be cancelled. The applicant shall be required to file a new application, pay applicable fees, and fulfill the requirements for licensure outlined in this section. No previous apprenticeship shall be considered for the new application.

[3] **4**. If an individual is a Missouri licensed embalmer or has completed a program accredited by the American Board of Funeral Service Education, any successor organization, or other accrediting entity as approved by the board or has successfully completed a course of study in funeral directing offered by an institution accredited by a recognized national, regional or state accrediting body and approved by the state board of embalmers and funeral directors, and desires to enter the profession of funeral directing in this state, the individual shall comply with all the requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and subsection 1 of this section; however, the individual is exempt from the twelve **consecutive [-]** month apprenticeship required by subsection 1 of this section.

5. Upon establishment of his or her qualifications as specified by this section the board shall issue to the applicant a license to practice funeral directing and shall register the applicant as a duly licensed funeral director.

(L. 1993 S.B. 27, A.L. 1998 S.B. 854, A.L. 2001 H.B. 48, A.L. 2011 H.B. 265 merged with S.B. 325)

Recognition of persons licensed in other states, --fees.

333.051. 1. [Any individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his or her residence may be granted a license to practice funeral directing or embalming in this state on application to the board and on providing the board with such evidence as to his or her qualifications as is required by the board.

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having requirements substantially similar to those existing in this state may apply for a license to practice in this state by filing with the board a certified statement from the examining board of the state or territory in which the applicant holds his or her license showing the grade rating upon which the license was granted, together with a recommendation, and the board shall grant the applicant a license upon his or her successful completion of an examination over Missouri laws as required in section 333.041 or section 333.042 if the board finds that the applicant's qualifications meet the requirements for funeral directors or embalmers in this state at the time the applicant was originally licensed in the other state.

3. A person holding a valid, unrevoked and unexpired license to practice funeral directing or embalming in another state or territory with requirements less than those of this state may, after five consecutive years of active experience as a licensed funeral director or embalmer in that state, apply for a license to practice in this state after passing a test to prove his or her proficiency, including but not limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.]

Any individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in any other state may be granted a license to practice funeral directing or embalming in this state on application to the board, payment of applicable fees, and upon providing the board with evidence as to his or her qualifications for licensure.

2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or funeral director in another state having licensure requirements substantially similar to those existing in this state may apply for a license to practice in this state by filing with the board:

a. An application for licensure showing that the applicant is eligible for licensure in this state and payment of any fees the Board shall establish by rule;

b. A statement from the examining board(s) of the state in which the applicant holds a current and unrevoked license as an embalmer and/or funeral director;

c. Written documentation of any discipline imposed on any professional license held by the applicant;

d. Documentation of successful completion of the National Board Funeral Service Arts examination of the Conference of Funeral Service Examining Boards, or successor organization, if seeking licensure as a funeral director, and National Board Funeral Service Arts examination and National Board Funeral Service Sciences examinations of the Conference of Funeral Service Examining Boards, or successor organization, if seeking licensure as an embalmer, or evidence of licensure for the preceding five consecutive years as a funeral director and/or embalmer; and

e. Evidence of successful completion of the Missouri Law exam of the Conference of Funeral Service Examining Boards, or successor organization.

.(L. 1965 p. 522 § 5, A.L. 1981 S.B. 16, A.L. 1998 S.B. 854, A.L. 2011 H.B. 265 merged with S.B. 325)

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 **funeral establishment** 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]**4**. 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.

License renewal, fee--failure to renew, effect--business address required.

333.081. 1. Each license issued to a funeral director or embalmer pursuant to this chapter shall expire unless renewed on or before the renewal date. The board may, however, provide for the renewal of licenses held by individuals who are not actively engaged in practice and who are over sixty-five years of age without fee. The board shall renew any such license upon due application for renewal and upon the payment of the renewal fee, except that no license shall expire during the period when the holder thereof is actively engaged in the military service of the United States. Any licensee exempted from the renewal of his or her license because of military service shall, before beginning practice in this state after leaving military service, apply for and pay the renewal fee for the current licensing period.

2. When renewing a funeral director's or embalmer's license the licensee shall specify the address of the funeral establishment at which he or she is practicing or proposes to practice and shall notify the board of any termination of his or her connection therewith. The licensee shall notify the board of any new employment or connection with a funeral establishment of a permanent nature. If the licensee is not employed at or connected with a funeral establishment he shall notify the board of his or her permanent address.

3. Each license issued to a funeral establishment pursuant to this chapter shall expire unless renewed on or before the renewal date.

[3]**4**. The holder of an expired license **and registration** shall be issued a new license **or registration** by the board within two years of the renewal date after he or she has paid delinquent renewal fees. Any license **or registration** not renewed within two years shall be void.

4. Failure of the licensee **or registrant** to receive the renewal notice shall not relieve the licensee **or registrant** of the duty to pay the renewal fee and renew his or her license **or registration**.

(L. 1965 p. 522 § 8, A.L. 1981 S.B. 16, A.L. 2001 H.B. 48)

[Rules and regulations of board, procedure--fees, how set.

333.111. 1. The board shall adopt and enforce rules and regulations for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1965 p. 522 § 11, A.L. 1981 S.B. 16, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3)]

THIS SECTION BEING COMBINED WITH 333.340

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].

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

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

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

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

4. Any funeral director **licensed in this state desiring to** act**[ing]** as a preneed agent shall**:**

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

(2) [be required to report] Provide 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 **for, or on behalf of** [as part of their biennial renewal form. Each funeral director preneed agent shall be included on the board's registry.**]**

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.

5. Each preneed agent funeral director shall apply to renew his or her registration on or before 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;

(2) 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.

6. A preneed agent shall be required to keep the board apprised of the name and address of each preneed seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts.

[5] 7. 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**s** 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 **this or** another state, territory, federal agency, or country **[upon grounds for which revocation or suspension is authorized in this state or]**;

(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.

7. In addition to all other powers and authorities granted to the board, if the board determines that a seller has failed to deposit payments required to be deposited into either a preneed joint account or a preneed trust or has withdrawn funds from a preneed joint account or a preneed trust to which the seller was not entitled, the seller and the board may enter into a repayment settlement agreement which allows the seller to correct the deficiency or the board may require a repayment plan as a condition of any discipline imposed by agreement or order. Any correction of the deficiency shall require that the deficiency be paid in full by a specified term to be not more than 5 years from the effective date of the settlement agreement or order and shall specify periodic payments to be made by the seller with a minimum of the total payments per year to be at least 20 percent of the total deficiency. Any such agreement may be made in conjunction with any discipline or court proceeding or it may be made without the imposition of any discipline or any court proceeding. Failure to comply with the terms and conditions of any such repayment settlement agreement shall be cause for discipline.

Rulemaking authority, procedure--fees.

333.340. 1. The board shall adopt and enforce rules for the transaction of its business and for standards of service and practice to be followed in the professions of embalming and funeral directing deemed by it necessary for the public good and consistent with the laws of this state. The board may also prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of embalming or funeral directing.

2. The board shall set the amount of the fees which this chapter authorizes and requires by rules promulgated [under] **pursuant to** section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

3. The board shall promulgate and enforce rules for the transaction of its business and for standards of service and practice to be followed for the licensing and registration of **funeral establishments,** providers, sellers, and preneed agents deemed necessary for the public good and consistent with the laws of this state.

4. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

[4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.]

(L. 2009 S.B. 1)

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.**]**

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.

Trust-funded preneed contract requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) General economic conditions;

(2) The possible effect of inflation or deflation;

(3) The expected tax consequences of investment decisions or strategies;

(4) The role that each investment or course of action plays within the overall trust portfolio;

(5) The expected total return from income and the appreciation of capital;

(6) Needs for liquidity, regularity of income, and preservation or appreciation of capital.

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

Provisions applicable to all preneed trusts.

436.440. 1. The provisions of this section shall apply to all preneed trusts, including trusts established before August 28, 2009.

2. A preneed trustee may delegate to an agent duties and powers that a prudent trustee of comparable skills would reasonably delegate under the circumstances. **All such delegations shall be made pursuant to a written agreement that discloses the scope of duties and powers delegated, all compensation to be paid to the agent, and any relationships or contracts between the agent and the seller.** The trustee shall exercise reasonable care, skill, and caution in:

(1) Selecting an agent;

(2) Establishing the scope and terms of the agency, consistent with the purposes and terms of the trust; [and]

(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the agency; **and**

(4) Disclosing the agency agreement to the seller and the trust's beneficiaries.

3. In performing a delegated function, an agent owes [a] dut[y]**ies** to the trust **of loyalty to all trust beneficiaries** and to exercise reasonable care to comply with the terms of the agency **agreement**. **Beneficiaries of a preneed trust include the contract seller, the provider fulfilling the preneed contract, the purchaser and the contract beneficiary.**

4. By accepting a delegation of powers or duties from the trustee of a preneed trust, an agent submits to the jurisdiction of the courts of this state **and to the board over trusts established pursuant to this chapter.**

5. Delegation of duties and powers to an agent shall not relieve the trustee of any duty or responsibility imposed on the trustee by sections 436.400 to 436.520 or the trust agreement.

6. For trusts in existence as of August 28, 2009, it shall be permissible for those trusts to continue to utilize the services of an independent financial advisor, if said advisor was in place pursuant to section 436.031 as of August 28, 2009, **and such delegation otherwise complies with this section.**

Seller report to board required, contents--fee--filing of reports.

436.460. 1. Each seller shall file an annual report with the board which shall contain the following information:

(1) The contract number of each preneed* contract sold since the filing of the last report with an indication of, and whether it is funded by a trust, insurance or joint account;

(2) The total number and total face value of preneed contracts sold since the filing of the last report;

(3) The contract amount of each preneed contract sold since the filing of the last report, identified by contract;

(4) The name, address, and license number of all preneed agents authorized to sell preneed contracts on behalf of the seller;

(5) The date the report is submitted and the date of the last report;

(6) The list including the name, address, contract number and whether it is funded by a trust, insurance or joint account of all Missouri preneed contracts fulfilled, cancelled or transferred by the seller during the preceding calendar year;

(7) The name and address of each provider with whom it is under contract;

(8) The name and address of the person designated by the seller as custodian of the seller's books and records relating to the sale of preneed contracts;

(9) Written consent authorizing the board to order an investigation, examination and, if necessary, an audit of any joint or trust account established under sections 436.400 to 436.520, designated by depository or account number;

(10) Written consent authorizing the board to order an investigation, examination and if necessary an audit of its books and records relating to the sale of preneed contracts; and

(11) Certification under oath that the report is complete and correct attested to by an officer of the seller. The seller or officer shall be subject to the penalty of making a false affidavit or declaration.

2. A seller that sells or has sold trust-funded preneed contracts shall also include in the annual report required by subsection 1** of this section:

(1) The name and address of [the] **each** financial institution in which it maintains a preneed trust account and the account numbers of such trust accounts;

(2) The trust **fund's aggregate purchaser payment contribution** balance as reported in the previous year's report;

(3) The current [face] **fair market** value of the trust fund **assets**;

(4) [Principal] **Purchaser payment** contributions received by the trustee since the previous report;

(5) Total trust earnings and total distributions to the seller since the previous report;

(6) Authorization of the board to request from the trustee a copy of any trust statement, as part of an investigation, examination or audit of the preneed seller;

(7) [Total] **A summary of** expenses **report**[, excluding distributions to the seller,] **that shall include the total of all expenses paid by the trustee to establish and/or administer the preneed trust, including and detailing by category, trustee fees, legal fees, accounting fees, investment expenses, taxes and any other expenses paid by the trustee** since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by a corporate officer of the trustee. The trustee shall be subject to the penalty of making a false affidavit or declaration.

3. A seller that sells or who has sold joint account-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of the financial institution in Missouri in which it maintains the joint account and the account numbers for each joint account;

(2) The amount on deposit in each joint account;

(3) The joint account balance as reported in the previous year's report;

(4) Principal contributions placed into each joint account since the filing of the previous report;

(5) Total earnings since the previous report;

(6) Total distributions to the seller from each joint account since the previous report;

(7) Total expenses deducted from the joint account, excluding distributions to the seller, since the previous report; and

(8) Certification under oath that the information required by subdivisions (1) to (7) of this subsection is complete and correct and attested to by an authorized representative of the financial institution. The affiant shall be subject to the penalty of making a false affidavit or declaration.

4. A seller that sells or who has sold any insurance-funded preneed contracts shall also include in the annual report required by subsection 1 of this section:

(1) The name and address of each insurance company issuing insurance to fund a preneed contract sold by the seller during the preceding year;

(2) The status and total face value of each policy;

(3) The amount of funds the seller directly received on each contract and the date the amount was forwarded to any insurance company; and

(4) Certification under oath that the information required by subsections 1 to 3 of this section is complete and correct attested to by an authorized representative of the insurer. The affiant shall be subject to the penalty of making a false affidavit or declaration.

5. Each seller shall remit an annual reporting fee in an amount established by the board by rule for each preneed contract sold in the year since the date the seller filed its last annual report with the board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the board from the funds of the seller. The reporting fee shall be in addition to any other fees authorized under sections 436.400 to 436.520.

6. All reports required by this section shall be filed by the thirty-first day of October of each year or by the date established by the board by rule. Annual reports filed after the date provided herein shall be subject to a late fee in an amount established by rule of the board.

7. If a seller fails to file the annual report on or before its due date, his or her preneed seller license shall automatically be suspended until such time as the annual report is filed and all applicable fees have been paid.

8. This section shall apply to contracts entered into before August 28, 2009.

(L. 2009 S.B. 1)

*Word "preened" appears in original rolls.

**Words "section 1" appear in original rolls.

Sale of business assets by seller, report to board required, contents.

436.500. 1. A seller that intends to sell or otherwise dispose of all or a majority of its business assets or its stock shall notify the board at least sixty days prior to selling or otherwise disposing of its assets or stock, or ceasing to do business as a seller, and shall file a notification report on a form established by the board.

2. The report required by this section for a seller **who is transferring all or a portion of its preneed contracts to another seller** shall include:

(1) A notarized and signed statement from the [person] **seller** assuming or agreeing to assume the obligations of the seller indicating that the assuming seller has been provided with a copy of the seller's final annual report and has consented to assuming the outstanding obligations of the seller;

[(2) In lieu of at the notarized statement required by subdivision (1) of this subsection, the seller may file a plan detailing how the assets of the seller will be set aside and used to service all outstanding preneed contracts sold by the seller; and]

(2) A final annual report that provides all the information that would be required in the annual report, if the seller was renewing

(3) The date the seller anticipates ceasing business;

(4) The name and license number of the seller assuming the ceasing seller's obligations;

(5) A signed statement from the seller that the seller has transferred all funds and/or interests in any insurance policy to the assuming seller for that seller to hold in trust, joint account or insurance to provide funding for each preneed contract assumed by the assuming seller; and

(3) Any other information required by any other applicable statute or regulation enacted pursuant to state or federal law.

3. Within thirty days after assuming the obligations of a seller under this section, the assuming seller shall:

(1) Notify each provider in writing that the former seller has sold or disposed of its assets or stock or has ceased doing business; [and]

(2) Provide written notification to the purchasers of each preneed contract assumed by the seller indicating that the former seller has transferred [ownership of has ceased doing business] **its preneed contracts to the new seller and advise the purchasers of the name of the financial institution where the preneed trust funds or joint account funds will be held, if different from that institution listed in the preneed contract with the purchaser; and**

(3) Provide written notice to the board on a form provided by the board that these notifications have been completed and any accompanying information the board may request on its form to confirm the assuming seller has fulfilled this obligation.

4. Nothing in this section shall be construed to require the board to audit, inspect, investigate, examine, or edit the books and records of a seller subject to the provisions of this section nor shall this section be construed to amend, rescind, or supersede any duty imposed on, or due diligence required of, an entity assuming the obligations of the seller.

5. The office of the attorney general shall have the authority to initiate legal action to compel or otherwise ensure compliance with this section [by a former provider licensee].

6. The ceasing seller shall provide the board with written notice of the date it actually ceases business and include a statement that it has discharged its duties with regard to the cease of business.

7. If a seller ceases business and no new seller assumes the outstanding preneed contracts, then the seller shall notify the board at least 60 days prior to ceasing business of its intention to cease business and to transfer all or some of its preneed contracts and funds to a new seller.

(1). A seller ceasing business under this section shall within 30 days before ceasing business, shall:

A. Provide written notice to each purchaser advising them of the seller ceasing business and advise the purchaser of the need to make arrangements with a new seller or to make request to cancel the contract and receive a refund per this section.

B. Promptly cooperate and take all steps necessary to transfer any funds or any interest in any insurance policy to the purchaser's new seller upon the request of the purchaser or to pay out to the purchaser or preneed beneficiary, upon written request, from the preneed trust or joint account all funds held for that purchaser's preneed contract including principal and income.

(2) A seller ceasing business under this section shall have a period of 6 months to wind down its business. A seller shall maintain its license current and active until all duties of seller have been fulfilled. A seller who has notified the board of its intention to cease business under this statute may, during the 6 month wind down period, take action only as necessary to wind down its business and shall engage in no new sales nor accept any new preneed contracts.

(3) If the ceasing seller fails to transfer all preneed funds to a purchaser's new seller, to an assuming seller, or to the purchaser or beneficiary within 6 months of ceasing business, as reflected either on the cease doing business form filed with the board or by independent verification by the board that the seller has ceased business, then the board and the Attorney General shall have concurrent jurisdiction to file any legal proceedings, including, but not limited to, interpleader, receivership, injunction, or any appropriate proceedings in probate court, to take control of the seller's preneed funds from any preneed trust or joint account and any insurance policies or insurance policy proceeds to ensure that the preneed funds are distributed so that the purchasers and preneed contract beneficiaries are protected and the funds are used to pay for the final disposition of the preneed contract beneficiary at the time of death.

(4) If any funds are held by, or on behalf of, the ceasing seller for preneed contract beneficiaries who have died but no claim has been made by any provider and more than 1 year has passed since the death of the preneed contract beneficiary, and the seller has confirmed that no such funds are due to the state for repayment of public assistance received by the preneed beneficiary, then those funds shall be paid to the Secretary of State as unclaimed property.

(5) A seller whose license has been revoked shall cease its business under this section.

(L. 2009 S.B. 1)

Board to maintain certain personal information about purchaser--confidentiality of information.

436.525. **1.**The board shall maintain as a closed and confidential record, not subject to discovery unless the person provides written consent for disclosure, all personal information about any individual preneed purchaser or beneficiary, including but not limited to name, address, Social Security number, financial institution account numbers, and any health information disclosed in the preneed contract or any document prepared in conjunction with the preneed contract; provided, however, that the board may disclose such confidential information without the consent of the person involved in the course of voluntary interstate exchange of information; or in the course of any litigation concerning that person or the provider, seller, or sales agent involved with the preneed contract; or pursuant to a lawful request or to other administrative or law enforcement agencies acting within the scope of their statutory authority. In any such litigation, the board and its attorneys shall take reasonable precautions to ensure the protection of such information from disclosure to the public.

2. The board may disclose, as an open record, whether the board has conducted a financial examination of a seller and if so, the date the board closed the last financial examination and whether any financial examination is currently open.

3. The board shall consider an examination "closed" as of the date the board approves the exam be closed or, if there is a pending discipline or litigation involving the findings from a financial examination, the exam shall be considered closed when the disciplinary order is entered or upon the conclusion of any discipline related litigation. A financial examination shall be considered "open" from the time the seller receives written notice from the board that an examination has begun and shall remain open until such time as the financial examination is closed.

4. No other information about the seller's financial examination shall be deemed to be an open record, unless otherwise designated as open by any other statute. The board may disclose any other information about a seller's financial examination only upon the written consent of the seller or as otherwise provided by law.

(L. 2009 S.B. 1 § 1)

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

PROPOSED AMENDMENT

20 CSR 2120-1.010 General Organization

PURPOSE: This purpose of this amendment is to update reference to a licensure examination requirement that is no longer applicable, to include professions now licensed by the board, and update board contact information.

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

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

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

[(3)] **(2)** The board is authorized [by section 333.111.1, RSMo] to adopt rules necessary for the transaction of its business and for the standards of service and practice to be followed in the professions of embalm[ing]**er** and funeral direct[ing]**er, preneed seller, preneed provider, and preneed agent**.

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

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

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

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

[(8)] **(7)** Examinations. After verification and approval by the board, application, scheduling, administration and payment for any examination required for licensure from the board shall be made to the board's testing service, [, currently the International Conference of Funeral Service Examining Boards, Inc]**.** [,or its designee]. The testing service shall approve applications upon the board's verification and approval.

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

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

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

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

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

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

PROPOSED AMENDMENT

20 CSR 2120-1.020 Board Member Compensation

PURPOSE: This purpose of this amendment is clarify that board members receive prorated per diem up to a $50 daily maximum for conduct of board business.

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

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

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

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

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

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

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

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

PROPOSED AMENDMENT

20 CSR 2120-1.040 Definitions

PURPOSE: This proposed amendment incorporates additional terms used throughout the board's regulations and provides for a single search location.

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

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

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

(3) Authorized external investment advisor- any federal or Missouri registered investment advisor qualified to advise a trustee of a preneed trust and retained by the preneed trustee.

([3] **4**) Board—Missouri State Board of Embalmers and Funeral Directors created by the provisions of Chapter 333, RSMo.

5 Conference- The International Conference of Funeral Service Examining Boards

([4] **6**) Corporation—a business entity incorporated under the laws of Missouri or any other state with authority to do business in the state of Missouri.

[(5)] **(7)** Cremation log—a written record or log kept in the cremation area available at all times in full view for a board inspector [, which shall include the following:
(A) The name of the deceased to be cremated;
(B) The name of the Missouri licensed establishment where the body is cremated;
(C) The date and time the body arrived at the crematory;
(D) The date and time the cremation took place;
(E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;
(F) The supervising Missouri licensed funeral director's license number or the supervising Missouri licensed embalmer's license number; and
(G) The name of the Missouri licensed funeral establishment, or other that was in charge of making the arrangements if from a different location].

(8) Cremated remains —the bone fragments which remain after the cremation process is completed.

(9) Cremation— a final disposition of dead human remains.; the mechanical process which reduces remains to bone fragments through heat, evaporation and/or an alkaline hydrolysis chemical process entailing maintaining a temperature of at least 305° Fahrenheit for at least one-half (1/2) hour.

Definition moved from 2.071 – need to review in conjunction with above (9)

(B) Cremation—the [technical heating] **mechanical** process which reduces remains to bone fragments through heat**,** [and] evaporation **an alkaline hydrolysis chemical process entailing maintaining a temperature of at least 305° Fahrenheit for at least one-half (1/2) hour**; a final disposition of dead human remains.

10) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.

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

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

(13) Crematory area—the portion of a building which houses the cremation chamber and includes the room where a cremation chamber is located.

Definition moved from 2.071 – need to review in conjunction with above (13)

(F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.

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

(15) Cremation urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

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

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

[(8)] **(18)** Embalmer examination—an examination consisting of the following:
(A) National Board Funeral Service Arts [Section] **examination** developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board;
(B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination;
(C) National Board Funeral Service Science [Section] **examination** developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; and
(D) Missouri Law [Section] **examination**.

[(9)] **(19)** Executive director—executive secretary of the board.

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

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

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

[(13)] **(23)** Funeral director examination-an examination consisting of the following:
[(A) Missouri Law Examination; and
(B) Missouri Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; or
(C) National Board Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board]
(A) National Board Funeral Service Arts examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.
(B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination; and
(C) Missouri Law examination.

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

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

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

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

(28) Independent Financial Advisor – an investment advisor retained pursuant to 436.440.6 RSMo.

[(17)] **(29)** Interment—burial **of dead human remains** in the ground [or], **a tomb** [entombment of dead human remains], **a** mausoleum, or other place **where dead human remains are interred**.

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

(31) Person-any individual, partnership, corporation, cooperative, association or other entity.

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

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

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

(35) Short-term storage—storage for a period of thirty (30) days or fewer.

(36) Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

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

AUTHORITY: sections 333.011, SB 1, Ninety-fifth General Assembly 2009 and section 333.111, RSMo 2000.* This rule originally filed as 4 CSR 120-1.040. Original rule filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-1.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.

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

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

PROPOSED RULE

20 CSR 2120-1.050 When Forms Considered Filed *(proposed rule number)*

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

1. **When any provision of Chapter 333 or 436, RSMo, provides for an application, a renewal, annual report or other request for authority to be filed with the board before that license, permit, registration, or other authorization will be issued by the board, the renewal, application, annual report or other request for authority must be deemed filed in accordance with this rule.**

2. **No annual report, application for licensure, registration, permit, or other request for authorization or renewal for any license, registration, permit or other request for authorization shall be deemed to be filed with the board until such time as such application, renewal, request, or annual report has been accepted by the board as complete.**

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

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

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

PROPOSED RULE

20 CSR 2120-2.005 General Rules – Applicable to all Licensees and Registrants *(proposed rule number)*

Purpose: This rule provides information and requirements applicable to all licensees and registrants.

(1) All licenses and registrations issued to any practicum, apprentice, registrant and/or licensee shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the person is working.
(2) Each Missouri licensed apprentice, registrant and licensee shall comply with all applicable state, county or municipal zoning ordinances and regulations.
(3) The licensee's failure to receive the renewal notice shall not relieve the licensee of the duty to pay the renewal fee and renew his/her license.
(4) The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations requirements as they apply to Missouri licensees.
(5) Each Missouri licensed embalmer or funeral director shall keep the board notified of each address change of the Missouri licensed funeral establishment at which he/she is practicing. The embalmer or funeral director shall notify the board within fifteen (15) days of any termination and prior to beginning as an embalmer or funeral director with a Missouri licensed funeral establishment.
(6) Each Missouri registered preneed agent shall keep the board notified of each preneed seller for whom the preneed agent is authorized to sell, negotiate, or solicit the sale of preneed contracts for or on behalf of.
(7) Each Missouri embalmer, funeral director, preneed seller, preneed provider, and preneed agent shall keep the board notified of their current address, telephone number, facsimile number, and email address, as applicable, at all times; and shall notify the board prior to any address change by submitting written notice with the new information.
(8) Each holder of a Missouri funeral establishment license shall notify the board at least sixty (60) days prior to any change of address of the Missouri licensed funeral establishment, sale of the Missouri licensed funeral establishment or termination of business of the Missouri licensed funeral establishment.
(9) A Missouri licensed funeral director, embalmer, and preneed agent has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or *nolo contendere*, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.
(10) All licensees may be represented before the board by an attorney. If the licensee desires to be represented by an attorney, the attorney shall be licensed to practice law in Missouri or meet the requirements of the Supreme Court with respect to nonresident attorneys.
(11) All documents filed with the board shall become a part of its permanent files.

AUTHORITY: section 333.111, 436.520, RSMo 2000.

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

PROPOSED AMENDMENT

20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship

PURPOSE: This proposed amendment provides additional clarification of the requirements for licensure updates the terminology to be more consistent with current date; provides additional clarity relating to practicum registrations; and addresses the elimination of the previously required embalmer oral examination requirement.

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

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

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.

(3) After registration with the board as a practicum student in an accredited [institution] **program** of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited [institution] **program** of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee.

(4) **If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment prior to practicing as a practicum student at that location.** [During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

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

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

[(7)] **(6)** After graduating from an accredited [institution] **program** of mortuary science education, the applicant then shall file, with the board, an official transcript of his/her embalming school grades showing [s/he] **he/she** is a graduate of that [school] **program**. [In addition, the applicant shall ensure that his/her official copy of the national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.] **An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts examination and the National Board Funeral Service Science examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.**

[(8)] **(7)** Effective July 30, 2004, the Missouri State Board embalmers' examination shall consist of the National Board Funeral Service Arts [section] **examination**, the National Board Funeral Service Science [section] **examination**, and Missouri Law [section] **examination**. Application, payment, scheduling, and administration for the [n]**N**ational [b]**B**oard examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law [section] **examination** if the applicant has successfully completed the Missouri Law [section] **examination** for another Missouri license within the jurisdiction of the board [and] **if** the **current** license [is] **remains** in active status **or the applicant was a registered embalmer apprentice or a registered funeral director apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months**. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

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

[(10) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(11)] **(9)** Those applicants achieving seventy-five percent (75%) **or greater** on each of the [three (3)] [section] **examinations** of the embalm[ing]**er** examination will be deemed to have passed the board's embalm[ing]**er** examination. Any applicant who scores less than seventy-five percent (75%) on any [section] **examination** of the embalm[ing]**er** examination may retake the failed [section] **examination**, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed [section] **examination**, the applicant shall score at least seventy-five percent (75%) to pass.

[(12)] **(10)** After the applicant has made a passing grade on the National Board Funeral Service Arts [section] **examination** and the National Board Funeral Service Science [section] **examination** of the embalm[ing]**er** examination, [s/he] **he/she** then may apply for registration as an apprentice embalmer. [In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination. This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board's website at http://pr.mo.gov/embalmers.asp.]

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

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

[(15) Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.]

(16)] **(13)** An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of **at least** twenty-five (25) dead human bodies, **devoted at least thirty (30) hours per week to his/her duties as an apprentice embalmer and has served at least twelve (12) consecutive months** shall be submitted to the board at the time of completion of the apprenticeship period [and prior to the oral examination]. **The embalmer apprentice registration authorizes the registrant to engage in the practice of embalming only during the period of apprenticeship and only under the supervisor(s) registered with the board. Once the apprenticeship is successfully completed as defined in this rule, the embalmer apprentice registration is null and void. Any Missouri licensed embalmer who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of embalming before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.330.2, RSMo.**

(14) Each embalmer applicant shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law examination, developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

[(17)] **(15)** After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall [appear for the oral examination. To appear for the oral examination, the embalmer applicant shall:] [(A)] [S] **s**ubmit an application **for licensure as an embalmer** on a form supplied by the board and pay the applicable fees to the board[; ; and (B) Successfully pass the oral examination administered by the board for licensure].

[(18) The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.]

[(19)] **(16)** After satisfactory completion of these requirements, an embalmer's license shall be issued to an [apprentice] embalmer **applicant** upon payment of the applicable fee and subject to the provisions of section 333.[121]**330**, RSMo.

[(20)] **(17)** An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited [institution] **program** of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board and the applicant shall be required to **meet the requirements for licensure** [appear for the oral examination] within five (5) years of the new date of application. No previous practicum, apprenticeship [,] **or** application [, or Missouri Law section] will be considered for a new application. However, the successful examination results of the National **or Missouri** [Board] Funeral Service Arts [section] **examination** [and] the National Board Funeral Service Science [section] **examination**, **and the Missouri Law examination, if applicable, developed and furnished by the International Conference of Funeral Service Examining Boards, Inc.,** or designee of the board will be accepted.

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

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

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

[(24)] **(21)** Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination, **if applicable,** and shall be required to complete a six (6) consecutive month period of apprenticeship, during which time [s/he] **he/she** shall **devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer and** be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer's license under this section. No previous apprenticeship, application[,] or examination, **if applicable,** will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts [section] **examination**, [and] the National Board Funeral Science [section] **examination and the Missouri Law Section (if applicable) developed and furnished by the International Conference of Funeral Service Examining Boards, Inc.,** or designee of the board will be accepted.

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

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

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

AUTHORITY: sections 333.041, 333.081, [and 333.121, RSMo Supp. 2008, section] 333.091, [SB 1, Ninety-fifth General Assembly 2009, and section 333.111,] **and 43.543**, RSMo[2000] **Supp2009**.* This rule originally filed as 4 CSR 120-2.010. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 26, 1976. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Amended: Filed April 6, 1978, effective July 13, 1978. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Rescinded and readopted: Filed Dec. 3, 1982, effective March 11, 1983. Amended: Filed July 17, 1989, effective Oct. 12, 1989. Amended: Filed March 26, 1991, effective Sept. 30, 1991. Amended: Filed Aug. 13, 1991, effective Jan. 13, 1992. Amended: Filed Oct. 16, 1991, effective Feb. 6, 1992. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Aug. 30, 1995, effective Feb. 25, 1996. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed March 24, 1999, effective Oct. 30, 1999. Amended: Filed March 10, 2000, effective Sept. 30, 2000. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.010, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.

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

ATTACHMENT B

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2-General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.020 Biennial License Renewal

PURPOSE: This purpose of this amendment is to provide updated information relating to renewal deadlines and include license professions not previously referenced.

PURPOSE: This rule outlines the requirements and procedures for the renewal of embalmer's, funeral director's, [and] *funeral establishment's**, preneed seller's, preneed provider's** licenses **and preneed agent's registrations**.*

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

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

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

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

[(5)] The biennial license renewal date for Missouri licensed embalmers and Missouri licensed funeral directors shall be designated as June 1. The biennial license renewal date for Missouri licensed funeral establishments shall be designated as January 1. **The annual renewal date for Missouri licensed preneed sellers and preneed providers is November 1. The annual renewal date for Missouri registered preneed agents is December 1.**

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

(3) The holders of expired agent registrations which are not renewed will be notified that their registration has expired. The holder of an expired registration shall be issued a registration by the board within two (2) years of the renewal date after the proper forms have been completed and the all applicable fees have been paid. Any Missouri preneed agent's registration not renewed within two (2) years shall be void.

(4) The holders of expired Missouri funeral establishment licenses which are not renewed will be notified that their license has expired. The holder of an expired registration shall be issued a license by the board within two (2) years of the renewal date after the proper forms have been completed and delinquent fees have been paid. Any Missouri funeral establishment license not renewed within two (2) years shall be void.

(5) The holders of expired Missouri preneed seller's and preneed provider's licenses which are not renewed will be notified that their licenses have expired. The holder of a preneed seller's license who has failed to file an annual report will be suspended. The holder of an expired license shall be issued a license by the board within two (2) years of the renewal date after the proper forms have been completed applicable fees have been paid. Any Missouri preneed seller's and preneed provider's license not renewed within two (2) years shall be void.

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

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

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

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

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

PROPOSED AMENDMENT

20 CSR 2120-2.022 Disabled-Retired License/Registration

PURPOSE: The proposed amendment provides eligible licensee's information relating how to obtain a disabled status and includes preneed agents which are not currently identified. The disabled language is primarily from 20 CSR 2120-2.020 and is being proposed to move to this regulation because it fits more appropriately with the current purpose of the existing rule.

PURPOSE: This rule clarifies the requirements to ***disable a funeral director, embalmer license or preneed agent registration or*** *retire from the practice of funeral directing [and/or] embalming.*

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

(2) Any person licensed to practice as a funeral director and/or embalmer in Missouri who is over sixty-five (65) years of age and who retires from such practice, [shall] **may** file with the board an affidavit, on a form to be furnished by the board, which states the date on which s/he retired from such practice, that [s/]he**/she** will not practice such profession and such other facts as tend to verify the retirement as the board may deem necessary; but if s/he thereafter wishes to reengage in the practice, s/he shall renew his/her registration with the board as provided in section 333.081.1 **and 333.325.5**, RSMo.

([2]**3**) For purposes of this section, a retired Missouri licensed funeral director and/or Missouri licensed embalmer is one who is neither engaged in the active practice of funeral directing/embalming nor holds him/herself out as an actively practicing funeral director/embalmer and has executed and filed with the board a retirement affidavit. A retired Missouri licensed funeral director/embalmer may keep his/her wall-hanging certificate after execution of a retirement affidavit but shall surrender, upon retirement, all other indicia of licensure.

([3]**4**) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.030 [Registration of Licensees with Local Registrars of Vital Statistics]
Death Certificate Filings

PURPOSE: The purpose of this amendment is to bring the board's regulation up to current terminology based on changes made by the Missouri Department of Health and Senior Services electronic death certificate system.

PURPOSE: This rule outlines the [procedure for registering renewal licenses with local registrars] ***requirements of Missouri licensed embalmers funeral directors filing death certificates***.

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

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

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.

(4)] **(1)** Each licensed embalmer who embalms a dead human body shall state on the death certificate that [s/he] **he/she** embalmed the dead human body described on the death certificate. Each statement **shall be attested to its accuracy as determined by the Missouri Department of Health and Senior Services.** [must be signed by the licensed embalmer.] If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

[(5)] **(2)** Each [signature] **authentication** of a licensed embalmer **and licensed funeral director** on a death certificate must correspond with the [same] licensee's [signature as registered with the local registrar of vital statistics] **authentication as approved and licensed by the board**.

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

(4) Every licensed embalmer and funeral director shall comply with Chapter 193 RSMo and its accompanying regulations promulgated by the Missouri Department of Health and Senior Services.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.040 Licensure by Reciprocity

PURPOSE: The purpose of this amendment is to bring the board's regulation up to current terminology based on changes made by the Missouri Department of Health and Senior Services electronic death certificate system.

PURPOSE: This rule outlines procedures for obtaining an embalmer or funeral director license by reciprocity.

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

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory is eligible to obtain licensure by reciprocity by meeting the following requirements of the board:
(A) Evidence satisfactory to the board that the reciprocity applicant holds a valid, unrevoked, and unexpired license as an embalmer or funeral director in another state having substantially similar requirements to the requirements for licensure as either an embalmer or funeral director in this state including a copy of his/her original license issued by the other state;
(B) Proof of his/her educational and professional qualifications, which shall be substantially equivalent to the requirements existing in Missouri at the time s/he was originally licensed;
(C) A certificate of state endorsement from the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;
(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination and the National Board Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or
(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; [and]
(F) The reciprocity applicant will be required to successfully complete the [reciprocity] **Missouri Law** examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board's receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the [reciprocity] **Missouri Law** examination is required, that applicant will be exempt from taking the [reciprocity] **Missouri Law** examination for the second license if the original Missouri license remains in active status **or the applicant successfully completed the Missouri Law examination within the last twenty-four (24) months;**
(G) A completed application for licensure for reciprocity provided by the board; and

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

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by meeting the following requirements of the board:
(A) An official certification from another state or territory which verifies that the licensee holds a valid, unrevoked, and unexpired funeral director or embalmer license in the other state or territory;
(B) A copy of his/her original funeral director or embalmer license from the other state or territory in which the applicant is licensed;
(C) Proof of his/her educational and professional qualifications;
(D) [The reciprocity applicant will be required to s]**S**uccessfully complete the [reciprocity] **Missouri Law** examination with a score of seventy-five percent (75%) or better [within twenty-four (24) months after the board's receipt of the reciprocity application]. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the [reciprocity] **Missouri Law** examination is required, that applicant will be exempt from taking the [reciprocity] **Missouri Law** examination for the second license if the original Missouri license remains in active status **or the applicant successfully completed the Missouri Law examination with the last twenty-four months**;
(E) A completed application for licensure for reciprocity provided by the board; and
(F) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

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

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

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

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

(6) An applicant shall meet the requirements of the board for licensure within two (2) years of receipt of the application or the application will expire. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed.

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

AUTHORITY: sections 333.051 and 333.111, RSMo 2000 and sections 333.091 and **43.543**[,, SB 1, Ninety-fifth General Assembly 2009] RSMo Supp 2009.* This rule originally filed as 4 CSR 120-2.040. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Aug. 16, 1976, effective Dec. 11, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Sept. 5, 1990, effective March 14, 1991. Amended: Filed March 4, 1991, effective July 8, 1991. Amended: Filed Feb. 1, 1994, effective July 30, 1994. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Nov. 1, 2001, effective April 30, 2002. Rescinded and readopted: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.040, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed July 22, 2009, effective Jan. 30, 2010.

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED RESCISSION

[20 CSR 2120-2.050 Miscellaneous Rules

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

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.060 Funeral Directing

Purpose: The purpose of this amendment is to bring the existing regulation current with terminology used and provide additional clarification. The amendment also modifies the requirements relating to where an apprentice may fulfill their apprentice requirements by requiring the funeral establishment to be within Missouri.

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

(1) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo shall provide the following to the board:
(A) Proof of being at least eighteen (18) years of age;
(B) Proof of possession of a high school diploma or equivalent;
(C) Evidence of being a person of good moral character;
(D) Proof of satisfactory completion of each [section] **examination** of the funeral director's examination;
(E) Affidavit of completion of **at least** a twelve (12) consecutive month apprenticeship; or official transcript and documentation indicating he/she is a graduate of an [institute] **program** of mortuary science accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department for Funeral Service Education; or has successfully completed a course in funeral directing offered by a college accredited by a recognized national, regional, or state accrediting body and approved by the State Board of Embalmers and Funeral Directors; or proof of being a Missouri licensed embalmer;
(F) Completed application form provided by the board;
(G) Proof of successful completion of the National Board Funeral Service Arts examination or the Missouri Funeral Service Arts examination, if applicable;
(H) Payment of all applicable fees;
(I) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol; and
(J) Any other information the board may require.

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application fee directly to the board. If the applicant has successfully completed the National Board Funeral Service Arts examination, no Missouri Funeral Service Arts examination is required. Application forms can be obtained from the board office or the board's website [at http://pr.mo.gov/embalmers.asp].

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

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

(5) The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. [Accordingly, e] **E**ffective February 28, 2010, an apprentice shall not be allowed to register with the board for more than two (2) apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.

(6) **Each registered funeral director apprentice shall provide to the board, on the application provided the board, the name(s), and the license number(s) of each funeral establishment(s) where he/she will serve as an apprentice. Each supervisor must be licensed and registered with and approved by the board. Upon completed application, registration** [Upon registration] and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of [a] **the** Missouri licensed funeral director **supervisor(s) registered with the board**. [The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.] **If the funeral director apprentice begins work at any other licensed funeral establishments or has a change in supervisors during the course of the apprenticeship, the apprentice shall notify the board, on the form provided by the board, of the name(s), location(s), and funeral establishment(s) license number of the new apprentice location prior to beginning an apprenticeship at that location or under that supervisor. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fees.**

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

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

(9) Successful completion of a funeral director apprenticeship shall consist of the following:
(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment, **to include visitations and funeral ceremonies in a Function D only when under the direction of the Function C funeral establishment the apprentice has registered with the board**; [and]

(B) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that he/she has arranged for and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director[.]**; and**
(C) Devoted at least a minimum of 15 hours per week to his/her duties as an apprentice under the supervision of a Missouri licensed funeral director.

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

(11) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each [section] **examination**. If the applicant fails a**n** [section of the] examination, the applicant shall be permitted to retake that [section of the] examination. **A mandatory thirty (30) day waiting period is required between all examinations.**

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

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

[(14)] **(13)** An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board if the current license remains in active status **or the applicant was a registered funeral director apprentice or an embalmer apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months**.

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

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

[(17)] **(16)** A Missouri licensed funeral director shall be present and personally shall supervise any disinterment, interment, entombment, or cremation as defined in 20 CSR 2120-1.040 conducted by a Missouri licensed funeral establishment. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.
(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been complete, the Missouri licensed funeral director is not required to stay with the body.
(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

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

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

[(20)] **(18)** A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following at-need arrangements with the person having the right to control the incidents of disposition:
(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;
(B) Embalming, cremation, care, or preparation; and
(C) Nothing in this subsection shall be construed to apply to persons exempt from Chapter 333, RSMo.

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

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

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

[(24)] **(21)** Limited License.
(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited [funeral director] **licensee** shall only engage in the activities of funeral directing authorized for a Function B funeral establishment. **A limited licensee may serve as a funeral director in charge of only a Function B funeral establishment.**
(B) Every person desiring a limited license shall provide the following to the board:

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

(C) Every limited licensee shall provide the board with the name, location, and license number of each Function B funeral establishment where he/she is employed.
(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.

(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to **make application as a funeral director, meet the licensure requirements, and pay all applicable fees.** [complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.

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

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

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

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

[(29)] **(25)** Person Deemed to be Engaged in the Practice of Funeral Directing.
(A) No person shall be deemed by the board to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of the dead human body of a member of one's own family or next of kin as provided by section 194.119, RSMo, provided that the activity is not conducted as a business or for business purposes.
(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.

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

AUTHORITY: sections 333.041, 333.042, and 333.121, [RSMo Supp. 2008, section] 333.091, [SB 1, Ninety-fifth General Assembly] ***RSMo Supp*** *2009, and section 333.111, RSMo 2000.* This rule originally*

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.070 Funeral Establishments

Purpose: The purpose of this amendment is to update the existing regulation's terminology, provide additional clarification regarding the chemical disposition process and provide for board discretion to allow a funeral establishment to continue operation at an approved temporary location.

PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.

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

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

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

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. **This function shall contain a separate area for the**

care and custody of dead human remains that is secured with a functioning lock and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. This function shall maintain on the Missouri premises the following documents:
(A) General price list;
(B) Preneed contracts which have been cancelled or fulfilled;
(C) [Purchase agreements] **Written Statements of Goods and Services;**
(D) Authorizations to embalm or cremate.
(E) Register Log;
[(F) Preneed Contracts]

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

(E) Function E establishment shall have authority to make funeral arrangements and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. This function shall have a separate area for confidential conferences to arrange funeral services. The Function E establishment shall have on site tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building. The establishment is to be used only for arranging funerals and visitations to be conducted at another facility, no services shall be held at this establishment. This function shall maintain on the premises the following documents:
A) General price list;
(B) Preneed contracts which have been cancelled or fulfilled;
(C) Written Statements of Goods and Services;
(D) Authorizations to embalm or cremate;
(E) Register Log.

(3) If a Missouri licensed funeral establishment wishes to [change or] add to its classification, it shall file a new application for a Missouri licensed funeral establishment indicating its new classification. If a Missouri licensed funeral establishment desires to eliminate one (1) of its functions, [,other than a Function C,] it shall notify the board in writing of its intention to surrender the function, but is not required to file a new application for a new Missouri licensed funeral establishment.

[(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.] **(4)A Missouri licensed funeral establishment shall not be used for any business purpose other than as a Missouri licensed funeral establishment, except as otherwise permitted by statute or rule.**

A. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and separate address.

B. It shall be permissible to engage in the business of being a preneed seller, preneed provider, preneed agent and/or the sale of life insurance at a Missouri licensed funeral establishment so long as all persons involved in such business hold the necessary licenses to engage in such business lawfully.

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

(6) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition. A Missouri licensed funeral establishment shall maintain a current and active authorization to conduct business in Missouri with the Missouri Secretary of State.

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes [for a period of more than thirty (30) days], the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within [thirty (30)] **fifteen (15)** days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

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

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

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

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

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

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

(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

(12) Only one (1) **Missouri funeral establishment** license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule.
(A) If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule. **The temporary location is not intended for long-term use, but rather as a means to maintain the business of the Missouri licensed establishment while it actively pursues the steps necessary to re-open its facilities at the licensed location.**
(B) If the Missouri licensed funeral establishment has not been able to re-open its facilities at the licensed location within the initial six (6) months, then the Missouri licensed funeral establishment may make a written request to the board for an additional six (6) months to continue to operate from its temporary location which the board shall grant, at its discretion.
(C) If the Missouri licensed funeral establishment is unable to re-open its facilities at its licensed location after the expiration of the second six (6) month extension, then the Missouri licensed funeral establishment may make a written request and make an appearance before the board to present its plan to re-open at the licensed location and show good cause for any additional extension.
(D) Before a Missouri license funeral establishment operates at any location other than its licensed location, that establishment must make a written request to the board that sets forth the reason a temporary location is required, the address of the requested temporary location, and show a legal right to occupy the premises at the temporary location that may include a deed, a rental agreement, a letter from the owner of the temporary location or other similar written documentation. Upon approval of the temporary location, the board shall issue its written notice of approval. The temporary location may not be used by the licensee until it receives that written notice of approval from the board.
(E) When the Missouri licensed funeral establishment is ready to re-open the facilities at the licensed location, it must notify the board, in writing, that it is ready to re-open and the board will conduct an inspection to ensure the facilities at the licensed location comply with all requirements to be operated as a licensed establishment and upon approval will provide written notice to the establishment that it is approved to resume operations at the licensed location. No new application or application fee shall be required.
(F) In order to operate at a temporary location, the Missouri licensed funeral establishment must take all steps necessary to maintain its establishment license in a current and active status.

(13) A Missouri licensed funeral establishment may use only its registered name in any advertisement or holding out to the public.

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.[121]**330**, RSMo.

(B) It shall not be deemed to be misleading if a listing appears in a telephone directory or national directory if the name of the Missouri licensed funeral establishment changes after the listing has been placed, but before a new directory is published.

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

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

(16) Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2. 090.]

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

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

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

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

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

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

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

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

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

(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections ([21]**16**)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and

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

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

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

(1). The name of the deceased

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

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

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

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

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

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;

2. The relationship of that person to the deceased;

3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;

4. The time and date authorization to embalm was given; and

5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

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

(A) General price list;

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

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.]

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

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

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

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

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

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

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

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

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

(A) The name of the deceased;

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

(C) The date and time the embalming took place, if applicable;

(D) The name and signature of the Missouri licensed embalmer, if applicable;

(E) The name and signature of the Missouri registered apprentice embalmer, if any;

(F) The Missouri licensed embalmer's license number, if applicable;

(G) The Missouri apprentice embalmer registration number, if any; and

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

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

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

Purpose: The purpose of this amendment is to update the existing regulation's terminology and provide additional clarification regarding the chemical disposition process. The amendment also removes the definitions, which were moved to a general rule containing other definitions.

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

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

([2]**1**) No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.

([3]**2**) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:
(A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and
(B) Information regarding the cremation which shall include:
1. The full name of the deceased;
2. The last place of residence of the deceased;
3. The place of death of the deceased;
4. The place of birth of the deceased;
5. The date and place of the funeral;
6. The name of the Missouri licensed funeral director, other than a limited license funeral director, with whom the arrangements were made;
7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
8. The date and time when cremation was begun;

9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and

10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

11. If cremation is to be performed by chemical disposition, the written authorization shall also include;

(A). Specific consent for cremation by chemical process with an explanation of the process to be utilized; and

(B). Disclosures on the disposition of personal property including, but not limited to, jewelry, medical devices and any other items that might remain after the chemical disposition process is complete.

([4]**3**) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:

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

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

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

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

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

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

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

(H) The type of cremation performed.

([5]**4**) All records required to be maintained by this rule shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

([6]**5**) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

([7]**6**) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.

([8]**7**) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and/**or chemicals used in the cremation and to** protect the surrounding structure. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers **and processes** shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, **state,** city, county, and municipal statutes, rules and regulations.

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

(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the person making the arrangements on the cremation authorization form **and the type of cremation performed is as authorized in the written authorization to cremate**.

(1) Cremation areas shall contain only the articles, instruments, and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the portion of a building which houses the cremation chamber and includes the room where a cremation chamber is located. This paragraph (8) (B) 1 shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to April 1, 2008, provided that such establishment shall be prohibited from cremating human remains at the same time or in the same retort as non-human remains.

(2) Any establishment containing an area for the cremation of non-human remains prior to April 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation begins ownership of the establishment. This paragraph (8) (B) 2 shall not apply if only the owners of the stock of a corporation changes.

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

([9]**8**) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.

([10]**9**) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law.

([11]**10**) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by the funeral establishment.

([12]**11**) Each body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease. **Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made, pursuant to chapter 193.**

([13]**12**) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

([14]**13**) No body shall be cremated**, except for cremation by chemical disposition,** with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

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

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

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

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

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

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

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

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

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

[(24)] **(20)** Each urn into which cremated remains are placed **by a licensee or funeral establishment** shall be made of a durable material which shall enclose the cremated remains entirely.

[(25)] **(21)** Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed, or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation. **Any Missouri licensed funeral establishment that comes into possession of unclaimed cremated remains may also dispose of these remains pursuant to chapter 194.**

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

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

*AUTHORITY: section[s] 333.061[and 333.121], RSMo Supp. [2008] **2009, section 333.330, SB1,Ninety-fifth General Assembly 2009** and sections 333.111 and 333.145, RSMo 2000.* This rule originally filed as 4 CSR 120-2.071. Original rule filed May 29, 1987, effective Sept. 11, 1987. Amended: Filed Jan. 15, 1988, effective April 11, 1988. Amended: Filed April 16, 1990, effective Sept. 28, 1990. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed Sept. 3, 1996, effective April 30, 1997. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed Dec. 31, 2003, effective July 30, 2004. Moved to 20 CSR 2120-2.071, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007. Amended: Filed April 8, 2009, effective Oct. 30, 2009.*

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.080 Written Statement of Charges

Purpose: The purpose of this amendment is to make updates to requirements of consumer disclosures.

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

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

(2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise. At a minimum, the written statement of charges shall contain the following:
(A) The **license number,** name**,** and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;
(B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;
(C) The [name, address and] signature of the person making the at-need arrangements;
(D) The date of the signatures;
(E) The name of the deceased;
(F) The date of death;
(G) The price of the service(s) selected and the price of the supplemental (additional) items;
(H) The price of the merchandise selected including a detailed description of the casket and outer burial container;
(I) The amount and description of all cash advance items; and
(J) The method of payment.

(3) A preneed cont**r**act shall not be substituted for the written statement of charges [required by the this rule].
(4) Violations of this rule will be deemed misconduct in the practice of funeral directing.
(5) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.
AUTHORITY: sections 333.111 and 333.145, RSMo 2000. This rule originally filed as 4 CSR 120-2.080. Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Amended: Filed Nov. 10, 1976, effective March 11, 1977. Emergency amendment filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Amended: Filed Nov. 8, 1978, effective Feb. 11, 1978. Rescinded: Filed Jan. 13, 1982, effective April 11, 1982. Readopted: Filed Nov. 29, 1994, effective July 30, 1995. Amended: Filed Dec. 22, 1997, effective June 30, 1998. Amended: Filed May 3, 2004, effective Sept. 30, 2004. Moved to 20 CSR 2120-2.080, effective Aug. 28, 2006.*
**Original authority: 331.111, RSMo 1965 amended 1981, 1993, 1995 and 333.145, RSMo 1981.*

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.090 Preparation Rooms/Embalming Room

Purpose: The purpose of the amendment is to modify the current rule's requirements governing the standards required of funeral establishment preparation rooms.

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

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.
(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.
(3) Floors, Walls and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. [Floor drains shall be provided where the floor is to be subjected to cleaning by flooding.] All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.
(4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services rules and regulations, Missouri Department of Natural Resources rules and regulations, and all other applicable county, city, municipal and state rules and regulations relating to **containment backflow prevention devices,** plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.
(5) Sewage and Liquid Waste Disposal.
(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the **Missouri** Department of Health and Senior Services **and Missouri Department of Natural Resources**.
(B) The following aspirators are approved for preparation rooms:
1. Electric aspirators;
2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker **that is installed a minimum of six (6) inches above the highest point of the embalming table and is** approved by the American Society of Sanitary Engineering **(ASSE)** or by the Uniform Plumbing Code**.** [and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table]; and
3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the Uniform Plumbing Code, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the Uniform Plumbing Code.
(6) Solid Waste Disposal.
[(A)] **All waste materials** [R] **r**efuse, bandages, cotton and other solid waste materials shall be kept in leakproof, nonabsorbent containers which shall be covered with tight-fitting lids [prior to disposal.
(B) All waste materials, refuse, and used bandage and cotton shall be destroyed by reducing to ashes through incineration or shall be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.]
(7) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(8) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.
(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:
(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;
(B) Facilities shall exist for the proper disinfection of embalming instruments and the embalming table;
(C) Facilities for the proper storage of embalming instruments shall be maintained. At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;
(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and
(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.
(10) Food and Beverages.
(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.
(B) [The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.
(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction shall provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.]
(11) A separate wash sink (separate from slop drain sink) shall be present or in close proximity to the preparation room for a personal hand wash facility [for Missouri licensed embalmers] and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.
(12) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.
(13) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.
(14) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.
AUTHORITY: sections 333.111.1, RSMo 2000 and 192.020 and 333.061, RSMo Supp. 2006.* *This rule originally filed as 4 CSR 120-2.090.* Original rule filed Oct. 17, 1975, effective Oct. 28, 1975. Refiled March 24, 1976. Emergency rule filed Nov. 9, 1978, effective Nov. 20, 1978, expired Feb. 11, 1979. Rescinded and readopted: Filed Nov. 8, 1978, effective Feb. 11, 1979. Rescinded and readopted: Filed Jan. 13, 1982, effective April 11, 1982. Amended: Filed Aug. 13, 1984, effective Jan. 13, 1985. Amended: Filed June 2, 1986, effective Sept. 1, 1986. Amended: Filed Nov. 15, 1991, effective April 4, 1992. Amended: Filed May 26, 1993, effective Nov. 8, 1993. Amended: Filed May 16, 1995, effective Dec. 30, 1995. Amended: Filed Dec. 31, 2003, effective July 30, 2004. *Moved to 20 CSR 2120-2.090, effective Aug. 28, 2006. Amended: Filed Jan. 30, 2007, effective July 30, 2007.*

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.100 Fees

Purpose: The purpose of the amendment is to provide additional clarification of the fees of the board as well as modify some of the fees.

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

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

(A) Embalmer Practicum Student Registration Fee	$ 25
(B) Embalmer Application Fee – **Apprentice, Reciprocity**	$200
[(C) Embalmer Oral Examination Fee	$125
(D) Embalmer Reciprocity Application Fee	$300]
[(E)] **(C)** Embalmer Biennial Renewal Fee	$200
[(F)] **(D)** Funeral Director Application Fee **– Apprentice, Education, Reciprocity, Limited**	$200
[(G) Funeral Director Limited License Application Fee	$200
(H) Funeral Director Reciprocity Application Fee	$300]
[(I)] **(E)** Funeral Director Biennial Renewal Fee	$200
[(J)] **(F) Funeral Director, Embalmer, Establishment** Reactivation Fee (up to one (1) year after **date license** lapse**d**)	$100
[(K)] **(G) Funeral Director, Embalmer, Establishment** Reactivation Fee (up to two (2) years after **date license** lapse**d**)	$200
[(L)] **(H)** Establishment Application Fee	$300
[(M)] **(I)** Amended Establishment Application Fee	$ 25
[(N)] **(J)** Establishment Biennial Renewal Fee	$250
[(O)] **(K)** Reciprocity Certification Fee	$ 10
[(P)] **(L)** Duplicate Wallhanging Fee	$ 10
[(Q)] **(M)** Collection Fee for Bad Checks	$ 25
[(R)] **(N)** Law Book Requests	$ 5[*]
[(S) Examination Review Fee	$ 25
(T)] **(O)** Background Check Fee (amount determined by the Missouri State Highway Patrol)	
[(U)] **(P)** Provider License Application Fee (if no Funeral Establishment license)	$200
[(V)] **(Q)** Provider License Application Fee (if also Funeral Establishment license)	$100
[(W)] **(R)** Provider Annual Renewal Fee	$ 0
[(X)] **(S)** Provider Delinquent Renewal Fee **– In addition to annual renewal fee (up to one (1) year after the date license lapsed)**	$100
(T) Provider Delinquent Renewal Fee - In addition to annual renewal fee (up to two (2) years after the date license lapsed)	**$200**
[(Y)] **(U)** Seller License Application Fee	$200
[(Z)] **(V)** Seller Annual Renewal Fee	$200
[(AA)] **(W)** Seller Delinquent Renewal Fee **– In addition to annual renewal fee (up to one (1) year after the date license lapsed)**	$200
(X) Seller Delinquent Renewal Fee **– In addition to annual renewal fee (up to two (2) years after the date license lapsed)**	$[200] **400**
[(BB)] **(Y)** Preneed Agent Registration Fee	$ 50
[(CC)] **(Z)** Preneed Agent Annual Registration Renewal Fee	$ 50

[(DD)] **(AA)** Preneed Agent Delinquent Renewal Fee - **In addition to annual renewal fee (up to one (1) year after the date license lapsed)** $ 50

(BB) Preneed Agent Delinquent Renewal Fee - In addition to annual renewal fee (up to two (2) years after the date license lapsed) **$100**

[(EE) Preneed Seller Agent Law Examination Fee $ **]

[(FF)] **(CC)** Seller per Contract Annual Reporting Fee [(for contracts executed on or after August 28, 2009)] $ 36

[(HH)] **(DD)** Amended Provider Application Fee $ 25

[(II)] (**EE)** Amended Seller Application Fee $ 25

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.110 Public Complaint Handling and Disposition Procedure

Purpose: The purpose of the amendment is to make grammatical updates.

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

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

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

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

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

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

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

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

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

Purpose: The purpose of the amendment is to make grammatical updates and update terminology to correlate with the statutory changes that were effective August, 2009.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

20 CSR 2120-2.120 Public Records

Purpose: The purpose of the amendment is to modify the existing language to include additional records that are closed records of the board.

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

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

(2) The board hereby closes all individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment of the board, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of the board once they are employed.

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

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

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

[(5)] **(6)** Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost of inspecting and copying the records. The fee charged by the board shall be as follows:

(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication; and

(B) The board may require payment for these fees prior to making the copies.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2- General Rules

PROPOSED AMENDMENT

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

Purpose: The purpose of the amendment is to modify the existing language to facilitate additional sections of statute that may be effective at a later date.

PURPOSE: This rule explains that the use of the term "final disposition" in Chapter 333, RSMo, and ***relevant*** *sections* ***of Chapter*** *436[.400 to 436.520], RSMo,* ***relating to preneed,*** *shall be consistent with the definition of the term in Chapter 193, RSMo.*

(1) For purposes of Chapter 333, RSMo, and **relevant** sections **of Chapter** 436[.400 to 436.520], RSMo, **relating to preneed,** final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and **relevant** sections **of Chapter** 436[.400 to 436.520], RSMo, **relating to preneed,** shall be consistent with its use in Chapter 193, RSMo.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2 – General Rules

PROPOSED RULE

20 CSR 2120-2.160 Cemetery Exception (rule number is proposed number)

Purpose: The purpose of the rule is to provide clarification regarding what preneed falls within chapter 436 and chapter 214.

PURPOSE: This rule describes the exception to preneed contract requirements under relative sections of Chapter 436, RSMo relating to preneed, for endowed care cemeteries.

(1) Pursuant to section 333.310, RSMo, a cemetery shall be exempt from the licensure requirements of sections 333.315 and 333.320, RSMo when all of the following conditions are satisfied:

(A) The cemetery has a current and valid license issued pursuant to section 214.275, RSMo;

(B) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for funeral merchandise are made pursuant to a contract whereby such merchandise is either:

1. Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or

2. Made to be delivered to an interment right or grave subject to section 214.320, RSMo that is owned by the purchaser and identified in the contract.

(C) The cemetery has not been found to be in non-compliance with sections 214.385 or 214.387, RSMo by the Office of Endowed Care Cemeteries pursuant to a completed examination or audit or per decision of the Administrative Hearing Commission or any court; and

(D) The cemetery does not offer funeral services that may only be provided by a Missouri licensed funeral director or embalmer.

Authority: Original authority: 333.310, RSMo 2009

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2 – General Rules

PROPOSED RULE

20 CSR 2120-2.200 Military Training to Meet Requirements for Licensure (proposed rule #)

PURPOSE: This rule requires the Board to accept evidence of military education, training or service to be applied toward the requirements for licensure.

(1) Any applicant for licensure may, as part of the evidence of meeting the requisite educational and/or training requirements for licensure, submit evidence of military experience as a member of the military.

(2) The board shall review the evidence submitted and, if appropriate, make additional inquiry of the applicant to determine the scope and duties of the military experience to determine whether the military experience shall be counted towards the qualifications for licensure.

(3) In its review of the military experience, the board shall evaluate the content and nature of the military experience to determine whether that military experience shall count towards the education, training or service requirements for licensure. The board shall construe liberally the military experience in determining whether it will count towards the education, training or service requirements for licensure.

(4) "Active duty" shall mean full time duty in the active military service of the United States or the State of Missouri as defined in Section 101(a)(5), Title 10 of the U.S. Code and Section 41.030, RSMo.

(5) "Military experience" shall mean education, training or service completed by an applicant while a member of the military.

(6) "Military" shall mean the United States armed forces or reserves, the national guard of any state, the military reserves of any state, or the naval militia of any state.

Authority: Section 324.007, 333.111, and 333.340, RSMo.

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2 – General Rules

PROPOSED RULE

20 CSR 2120-2.210 Exemption from License Renewal Requirement For Active Duty Military and Stay of Administrative Actions Against a Licensee Serving on Active Military Duty (proposed rule #)

PURPOSE: To provide the process for a licensee on active duty military service to request waiver of renewal requirements and also to set forth requirements for stay of administrative actions against any license while the licensee serves active military duty.

(1) Any licensee who is a member of the United States Armed Forces or any military or militia of the State of Missouri, as defined in Section 41.030, RSMo, shall be exempted from the requirement to renew his or her license if:

(A) The licensee is on active duty, meaning full time duty in the active military service of the United States as defined in Section 101(a)(5), Title 10 of the U.S. Code or of the active military forces of Missouri;

(B) At the time of activation, the licensee held a current and active license with any professional licensing body in Missouri and was licensed or certified to engage in his or her profession in this state; and

(C) The licensee complies with the provisions of this rule to notify the board of the active military duty.

(2) While a licensee meeting the requirements of this rule is on active duty, as set forth above, each license of licensee shall be renewed without payment of renewal fees or any other act required for renewal while the licensee is on active military duty and up to two (2) years from the date the licensee ceases active military duty, if the following criteria are met to notify the board:

(A) The licensee notifies the board in writing on a form provided by the board or by other written communication accepted by the board as a Notice of Active Military Duty and requests license renewal. This written Notice of Active Military Duty shall be signed and dated by the licensee and contain the name, address and license number of the licensee, the date of activation, and shall be accompanied by a copy of the Licensee's active duty orders or other evidence sufficient for the board to determine the dates of active service by licensee. If the licensee requests waiver of any continuing education requirement, this request may be made at the time the Notice of Active Duty is filed. The Notice of Active Military Duty may be filed with the board at any time up to one hundred eighty (180) days from the date the licensee ceases active military duty. If any of licensee's licenses have lapsed for non-renewal during this period before the Notice of Active Military Duty has been filed, all licenses shall be reinstated upon the filing of the Notice of Active Military Duty with no additional requirements for reinstatement. All such reinstatements shall be retroactive to the last renewal date after the licensee went on active duty and the license shall be deemed as having been active from that date until the license is reinstated. If licensee files the Notice of Active Military Duty prior to a license renewal date, the board shall renew all licenses, without any further requirement, until either the Licensee notifies the board that active military duty has ceased or a license has not been renewed for a

period of 180 days from the date the active military duty ceased. The licensee shall have the duty to notify the board when his or her active military duty ceases within one hundred eighty (180) days from the date the active duty ceases. The board shall deem licensee's license current and active until the end of the one hundred eighty (180) days and after that time, the licensee's license shall be due for renewal at the next license regular renewal date;

(B) The licensee on active military duty shall not be required to pay any license renewal fees during the period of active military duty and up to one hundred eighty (180) days after the end of the active military duty. If a license lapses at any time during active military duty, that license shall be reinstated with no further requirements; other than the filing of the Notice of Active Military Service and

(3) If, at the time of activation, licensee's license was subject to discipline, the disciplinary period shall be stayed during the time of licensee's active duty military service and shall be reinstated at the time the license, registration or certification is reinstated. However, if the conditions of the discipline require the Licensee to take any action or meet any obligations, licensee shall have at least one hundred eighty (180) days after the end of his or her active military duty to take those actions or fulfill those obligations.

(4) If during the time licensee is on active military duty, the board desires to pursue any disciplinary or administrative action against any license, registration or certification of the licensee, the board shall stay any such action until at least sixty (60) days after the end of the active military duty.

Authority: Sections 192.360, 333.081, 333.111, and 333.340, RSMo.

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2 – General Rules

PROPOSED RULE

20 CSR 2120-2.220 Renewal of Licenses for Military Members (proposed rule #)

PURPOSE: This rule sets forth the procedure for renewal of a license held by a licensee on active military duty and for discipline of a license held by a licensee on active military duty.

(1) Any licensee who holds a current license, certificate or registration and is a member of any United States or State of Missouri military, including any reserve members and any member of the United States Public Health Service, who is engaged in the active duty in the military service of the United States or the State of Missouri and who is engaged in the performance of active duty in the military service of the United States in a military conflict in which reserve components have been called to active duty for any period of more than thirty (30) days and who have had any license, registration or certification lapse while performing this military service, may renew/reinstate such license, registration or certification without penalty by:

(A) Filing with the board a Notice of Active Military Duty on a form provided by the board or by written communication accepted by the board that shall be signed and dated by the licensee and shall contain the licensee's name, address, the type of license and license number of the licensee, the date of active duty activation, and shall be accompanied by a copy of the licensee's active duty orders or other evidence sufficient for the board to determine the dates of active military duty by licensee; and

(B) Such Notice of Active Military Duty shall be filed with the board along with the request for license reinstatement no later than sixty (60) days of completion of the active duty military service.

(2) Upon filing the Notice of Active Military Duty, the board shall reinstate licensee's license with no further requirements, retroactive to the last renewal.

(3) If, at the time of activation, licensee's license, registration or certification was subject to discipline, the disciplinary period shall be stayed during the time of licensee's active duty military service and shall be reinstated at the time the license, registration or certification is reinstated. However, if the conditions of the discipline require the licensee to take any action or meet any obligations, licensee shall have at least one hundred eighty (180) days after the end of his or her active military duty to take those actions or fulfill those obligations.

(4) If during the time licensee is on active military duty, the board desires to pursue any disciplinary or administrative action against any license, registration or certification of the licensee, the board shall stay any such action until at least sixty (60) days after the end of the active military duty.

(5) Active military duty shall mean full time duty in the active military service of the United States or the State of Missouri as defined in Section 101(a)(5), Title 10 of the U.S. Code and Section 41.030, RSMo.

Authority: Sections 41.950, 333.081, 333.111, and 333.340, RSMo.

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 2 – General Rules

PROPOSED RULE

20 CSR 2120-2.230 Issuance of Temporary Courtesy License to Nonresident Military Spouse (proposed rule #)

PURPOSE: This rule states the requirements and procedures for a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty to obtain a temporary courtesy license to practice as an embalmer, a funeral director, or as a preneed agent for one hundred eighty (180) days.

(1) The board shall grant a temporary courtesy license to practice as an embalmer, a funeral director and/or a preneed agent without meeting further requirements for licensure to a "nonresident military spouse" as defined in § 324.008.1, RSMo who provides the board with the following:

(A) A completed application form;

(B) A non-refundable application fee, as established by the board pursuant to rule, made payable to the board;

(D) Proof that the applicant has been engaged in active practice in the state, district or territory of the United States in which the applicant is currently licensed for at least (2) years in the five (5) years immediately preceding this application;

(E) Verification sent directly to the board from each state, district or territory of the United States in which the applicant has ever been licensed verifying that:

1. The applicant holds a current and active license in that jurisdiction to engage in the profession for which licensure is sought from the Board;

2. The applicant has not committed an act in any jurisdiction where the applicant has or had a license that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice at the time the act was committed; and

3. The applicant has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure or disciplinary proceeding by a licensing or credentialing entity in another jurisdiction.

(F) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol;

(G) Proof of satisfactory completion of the Missouri Law Exam;

(I) Such additional information as the board may request to determine eligibility for a temporary courtesy license.

(2) If the board is unable to determine if the licensing requirements of the state, district or territory in which the applicant is currently licensed are equivalent to Missouri's licensing requirements, the applicant shall have the burden to submit documentation to show the licensing requirements equivalency.

(3) Any temporary courtesy license issued pursuant to this rule shall be valid for one hundred eighty (180) days from the date of issuance and may be extended for another one hundred eighty (180) days upon submission of a written request by the holder of the temporary courtesy license.

(4) If a nonresident military spouse seeks full licensure in this state during the time while the temporary courtesy license is valid, he or she may request full licensure by filing a written request with the board. Any fees paid for a temporary courtesy license shall be credited towards the application fees due for full licensure.

Authority: Sections 324.008, 333.031, 333.041, 333.042, 333.051, 333.325, 333.111 and 333.340, RSMo.

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.010 Preneed Seller **License** [Registration]

Purpose: The purpose of the amendment is to update terminology and requirements for licensure of preneed sellers as provided in chapter 436.

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

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

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

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

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

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

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

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

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

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

Purpose: This rule outlines the procedures to be used to secure a preneed seller license.

(1) Applications for a preneed seller license shall be made on the forms provided by the board and must be accompanied by the applicable fees. At a minimum an applicant shall submit with the application:

(A) Evidence of being an individual resident of Missouri who is eighteen years of age or older, or if a business entity, a Certificate of Good Standing and, if applicable, a current Registration of Fictitious Name, from the Missouri secretary of state;

(B) Evidence 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;

(C) The name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;

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

(E) The name and address of each insurance company that may be utilized for insurance funded preneed contracts;

(F) 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;

(G) The name and address of an individual designated to serve as manager in charge of the seller's business.

(H) The name(s), addresses(s) and signature(s) of each preneed agent who is authorized to sell, negotiate, or solicit preneed contracts on behalf of their behalf;

(I) The name(s) and address(s) of each preneed provider with whom the licensee will have a contractural agreement to be designated as a preneed provider;

(J) 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;

(K) A business license if required by city or county;

(L) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and

(M) A Missouri Highway Patrol fee for each person that is an officer or who has at least a 10% interest in the business.

(2) An applicant shall meet the requirements of the board for licensure within ninety (90) days from the date filed with the board office. If the applicant fails to meet the requirements of the board within the required time and still desires to seek licensure, a new application and applicable fees shall be filed with the board.

(3) If the manager in charge changes, the seller shall provide written notice to the board within fifteen (15) days of the change.

(4) The seller license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership or name of the Missouri licensed seller changed, a new license shall be obtained.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new seller license. However, a new application for a seller license form shall be filed as an amended application within fifteen (15) day after change of ownership. This form shall be filled out completely with correct, current information.

(B) If a corporation owns a Missouri licensed seller, it is not necessary to obtain a new seller license or to file an amended application for a seller license if the owners of the stock change.

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

AUTHORITY: Original authority: 333.320 RSMo 2009

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.020 Preneed Provider License [Registration]

Purpose: The purpose of the amendment is to update terminology and requirements for licensure of preneed providers as provided in chapter 436.

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

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

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

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

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

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

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

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

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

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

Purpose: This rule outlines the procedures to be used to secure a preneed provider license.

(1) Applications for licensure as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable fees. At a minimum an applicant shall submit with the application:

(A) Evidence, if a business entity, a Certificate of Good Standing and, if applicable, a current Registration of Fictitious Name, from the Missouri secretary of state;

(B) Evidence if 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;

(C) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(D) The name(s) and address(s) of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(E) 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;

(F) A business license if required by city or county;

(G) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and

(H) A Missouri Highway Patrol fee for each person that is an officer or who has at least a 10% interest in the business.

(3) An applicant shall meet the requirements of the board for licensure within ninety (90) days from the date filed with the board office. If the applicant fails to meet the requirements of the board within the required time and still desires to seek licensure, a new application and applicable fees shall be filed with the board.

(4) The provider license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) "doing business as" name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership or name of the Missouri licensed provider changed, a new license shall be obtained.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new provider license. However, a new application for a provider license form shall be filed as an amended application within fifteen (15) day after change of ownership. This form shall be filled out completely with correct, current information.

(B) If a corporation owns a Missouri licensed provider, it is not necessary to obtain a new provider license or to file an amended application for a provider license if the owners of the stock change.

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

AUTHORITY: Original authority 333.315 RSMo 2009

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

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

Purpose: The purpose of the amendment is to outline the procedures for ceasing licenses of preneed sellers and preneed providers as provided in chapter 436.

PURPOSE: [Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to accept notification of intent to sell assets or cease doing business from persons registered as preneed sellers or preneed providers, or both. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . "for the transaction of its business. . ." This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in accepting notifications of intent to sell assets or cease doing business from registered preneed sellers or providers, or both.] **This rule outlines the procedures for preneed sellers and preneed providers to notify the board when selling or disposing of all or a majority of its business assets or it stock, or ceasing to do business.**

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

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

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

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

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

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

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

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

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

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

(3) If a seller ceases business, the seller shall assign all active preneed contracts to another licensed seller and transfer the funds held either in trust or in joint accounts to that licensed seller. In that assignment, the receiving seller shall agree to assume all obligations under the preneed contracts or in lieu of such complete assumption, the assignment shall set forth the obligations that the new seller is assuming and shall provide the board with valid rational as to why all obligations are not assumed and how the assignment protects the public and the purchasers and beneficiaries of the active preneed contracts. Except in extraordinary circumstances, as approved the board, no person or entity shall hold funds of preneed contracts unless that person is a licensed seller and has received an assignment of the active preneed contracts.

Original Authority: 436.490, 436.500, RSMo 2009

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.105 Filing of Annual Reports

Purpose: The purpose of the amendment is to outline the procedures for filing of annual reports for preneed sellers and preneed providers as amended when chapter 436 was revised in 2009.

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

[(1) For sellers:
(A) For the annual report due on October 31, 2009, sellers registered with the board prior to August 28, 2009, in lieu of filing the annual report required by section 436.460, RSMo, may file an annual report, on the form provided by the board, containing all the information required by section 436.021.2, RSMo 2000. This report shall report all preneed contracts executed since the reporting period the seller reported in its report due on October 31, 2008, through August 27, 2009. This annual report shall be accompanied by a fee of two dollars ($2) per preneed contract sold for the reporting period; and
(B) For the annual report due on October 31, 2010, sellers shall report all contracts executed from August 28, 2009, through August 31, 2010. Thereafter, the annual report shall report all contracts sold between September 1 of the year preceding the annual report through August 31 of the reporting year. Each annual report filed for reporting years ending October 31, 2010, and thereafter shall also be accompanied by the annual fee as established in 20 CSR 2120-2.100.

(2) For providers:
(A) For the annual report due as set out below, providers shall file an annual report as provided by section 333.315.3(4), RSMo, covering the reporting period as set out below:
1. For report due October 31, 2009, the reporting period shall be from the date of the provider's last annual report though August 27, 2009. No annual fee shall be required for this reporting period;
2. For report due October 31, 2010, the reporting period shall be August 28, 2009, through August 31, 2010, and accompanied by the renewal fee in 20 CSR 2120-2.100; and
3. For reports due successive years, reporting period shall be September 1 through August 31 and shall be accompanied by the renewal fee established in 20 CSR 2120-2.100.

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

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

(1) For sellers:
(A)Each preneed seller shall file a completed renewal on or by October 31st each year. If the license is not renewed by this date the license shall expire.

(B) Each preneed seller shall file a completed annual report by October 31st each year. If this is not filed the license shall be automatically suspended until the time the completed annual report is filed and all applicable fees have been paid.

(C) In completing the seller annual report the following is applicable:

(1) The number of preneed contracts sold in the reporting year (including those written that were cancelled, fulfilled, transferred or serviced in the same reporting year);

(2) If a consumer has more than one preneed contract with the same or different preneed sellers the contract should be identified on the annual report and the per contract fee is required for each preneed contract;

(3) If a consumer has one (1) preneed contract with multiple funding sources the contract should be identified on the annual report and one (1) per contract fee is to be submitted.

(D) 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:

(1) The name and address of the company issuing the policy or annuity funding the preneed;

(2) The amount of the policy or balance on account at the time the preneed contract was sold, and;

(3) An attestation from the seller that since these accounts are funded by insurance or annuity beneficiary or assignment, the seller has no ability to confirm the existence or amount of the policies or accounts.

(E) If the license is suspended the applicant must file the annual report and renewal and pay the delinquent fee established by the board before the license is issued.

(F) If the licensee fails to file the renewal from every reporting period and pay the renewal and delinquent fee within two (2) years from date of expiration the license shall become void and the licensee will have to reapply.

(G) If the license is not current the licensee shall not act as a preneed seller in any capacity, such as maintaining an active trust account or paying providers for fulfilled preneed contracts.

(2) For providers:

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

(B) If the license expires the applicant must file the annual report pay the renewal and delinquent fee established by the board before the license is issued.

(C) If the licensee fails to file the annual report from every reporting period and pay the delinquent fee within two (2) years from date of expiration the license shall become void and the licensee will have to reapply.

(D) If the license is not current the licensee shall not act as a preneed provider in any capacity, such as servicing preneed contracts or being named as a provider on such.

Authority: 333.315, 333.320, and 436.460 RSMo 2009

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RESCISSION

Purpose: The proposed rescission is being filed because the content of this regulation has been rewritten into other regulations as appropriate.

[20 CSR 2120-3.115 Contact Information

Purpose: The purpose of the amendment is to outline the procedures for filing of annual reports for preneed sellers and preneed providers as amended when chapter 436 was revised in 2009.

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

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

(2) Preneed providers, sellers, and agents shall notify the board within thirty (30) days of any such change by submitting written notice with the new information prior to beginning as a preneed provider or preneed seller at the new address. The written notice shall comply with the board's rules regarding written notice.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RULE

20 CSR 2120-3.117 Preneed Contract Numbering Requirements (rule number is a proposed number)

Purpose: The purpose of the proposed rule is to provide clarification regarding the numbering of preneed contracts as required in section 436.425.1 RSMo.

Purpose: ***The purpose of the rule is to outline the guidelines for the numbering of preneed contracts.***

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

Authority: 436.425, RSMo.

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.125 Corporate Ownership of a Licensee

Purpose: The purpose of the proposed amendment is to update the authority section.

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

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

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

*AUTHORITY: sections 333.315, 333.320, 333.340, and 436.4**[56]20**, RSMo Supp. 2009.* Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010.*

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.200 Seller Obligations

Purpose: The proposed amendment updates the statutory reference and modifies the timeframe in which a preneed seller is to notify the board of a change in manager.

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

(1) Except as otherwise provided in sections 436.400 to 436.52**5**[0], RSMo, and any rules validly promulgated pursuant to those sections—

(A) The seller shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract;

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

(C) All sellers shall designate an individual to serve as manager in charge of the seller's business. This individual shall either reside or work within the state of Missouri. The seller shall designate the manager in charge in its initial application for licensure. If the manager in charge changes, the seller shall provide written notice to the board within [thirty (30)] **seven (7)** days of the change.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RULE

20 CSR 2120-3.205 Mandatory Consumer Disclosures (rule number is proposed number)

Purpose: The purpose of this rule is to outline the requirements relating to mandatory consumers disclosures as it relates preneed contracts.

PURPOSE: This rule sets forth the mandatory consumer disclosures that must be provided to each purchaser of a preneed contract.

(1) Each purchaser of a preneed contract shall be provided the following written mandatory consumer disclosures at or before the time the consumer signs the contract unless otherwise provided by rule:

(A) This Contract is a Legally Binding Document

1. Before you sign this contract, you should read it and make sure you understand all terms and conditions. You may wish to consult with your legal counsel before you sign this contract.

(B) Right to Receive a Copy of this Contract

1. You have a right to receive a copy of this contract and any accompanying documents related to this contract such as any life insurance policies or evidence of a joint account.

(C) Right to Change Providers

1. The law gives you the right to change the provider named in this contract. The provider is the funeral home or other service provider who will provide the goods and services at the time of your death. If you want to change providers, you must provide both the seller and provider named in this contract with written notice that you wish to change providers and you must include the name and address of who you want to be your new provider. You may NOT be billed for any additional fees or charges to change providers. A change in providers requires the agreement of the new provider and may require a new preneed contract. Your seller and provider can help you determine whether a new contract is required or not.

(D) Qualifying for Public Assistance

1. If you decide to seek qualification to receive Medicaid or other public assistance, you may sign an agreement to make this contract irrevocable at any time. Even if you have agreed to make this contract irrevocable as part of your qualification for public assistance, you still may change providers at any time and make changes to the goods and services at any time. However, you cannot cancel this contract and cannot receive any refund.

(E) Your Right to Cancel this Contract

1. You have a right to cancel this contract at any time before your death. If you cancel this contract, you may not be entitled to receive all funds paid on this contract. If you want to cancel this contract, you must give the seller named in this contract written notice that you wish to cancel this contract.

2. If your contract is funded with a joint account, you must also provide written notice to the financial institution where your account is held. The financial institution must give you the principal in the account within fifteen (15) days of your request. Interest will be distributed as provided in this contract.

3. If your contract is funded with an insurance policy, canceling the contract will NOT cancel the insurance policy. You must follow the policies of the insurance company to cancel the insurance policy. If you cancel the insurance policy, you will receive only the cash surrender value of the policy which may be less than what you have paid into the policy.

4. If your contract is funded with a trust, you must also provide written notice to the trustee. The trustee shall then distribute all funds held on your behalf in the trust within fifteen (15) days.

(F) Seller's Right to Cancel This Contract

1. For a trust funded or joint account funded preneed contract, the seller may cancel this contract if you fail to make any installment payment within sixty (60) days of when it is due. Before the seller can cancel the contract, the seller must provide you with written notice of the intent to cancel the contract and you may bring your account current within thirty (30) days of notice. If you don't pay the balance within thirty (30) days, then the seller can provide the funds to the provider at the time of death to be credited towards your funeral services or the seller can cancel the contract and will refund you eighty-five percent (85%) of your contract payments made.

(G) What Happens if I Die Before My Contract is Paid in Full?

1. If you die before the contract is paid in full, your survivors have the option in trust funded or joint account funded contracts to pay the balance due on the contract and receive all goods and services that have been price guaranteed. If the balance is not paid, the amount paid on your contract will be applied to the price of your funeral based on the provider's current prices.

2. If your preneed contract is funded through an insurance policy, you should consult your insurance policy.

AUTHORITY: sections 333.340, 436.425, 436.456, 436.457 and 436.520, as amended by Senate Bill 1 (2009)

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RULE

20 CSR 2120-3.210 Formation Of An Insurance Funded Preneed Contract (rule number is proposed number)

Purpose: The purpose of the proposed rule is to provide clarification of an insurance funded preneed contract.

Purpose:

(1) A preneed contract is required when a funeral home agrees to accept proceeds from a life insurance policy and use those proceeds to pay for funeral goods and services when those goods and services are not immediately required.

(2) Whenever an insurance funded preneed contract is formed, that agreement must be documented by a written agreement between a purchaser and a seller in compliance with the provision of Chapters 333 and 436.

(3) An insurance funded preneed contract may be guaranteed or non-guaranteed and shall clearly state on the contract whether the prices quoted are guaranteed.

(4) Any life insurance policy or annuity may be used as a funding source for a preneed contract regardless of when or from whom it was purchased including insurance policies marketed as a "final expense policy" or "burial policy."

(5) A preneed contract funded by insurance may provide, as a term of the contract, that the contract is deemed cancelled if the insurance policy is cancelled or if the beneficiary or assignment is changed to another seller as such act shall be considered as a cancellation of the preneed contract by the purchaser.

(6) An insurance funded preneed contract may contain agreements between the seller and the purchaser of the impact of the insurance policy being cancelled, lapsed, being reduced paid up, a reduced face amount or any other contingency that results in the insurance amount paid out being less than anticipated at the time of entry into the preneed contract.

AUTHORITY*: Sections 436.405.1(3), (4), (7). (8), 436.425, 436.450, 436.465, 436.520, RSMo.*

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.300 Provider Includes Funeral Establishment

Purpose: The purpose of this amendment is to update the statutory references.

PURPOSE: This rule establishes that a provider in a preneed contract includes, but is not limited to, a funeral establishment that has agreed to undertake the obligations of a preneed contract under ***relevant*** *sections* ***of Chapter*** *436[.400 to 436.520], RSMo****, relating to preneed****.*

(1) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.52**5**[0], RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.52**5**[0], RSMo.

(2) Any provider who is a licensed funeral establishment who has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.52**5**[0], RSMo, must meet all requirements of both a licensed funeral establishment and a preneed provider pursuant to Chapter 333, RSMo, and sections 436.400 to 436.52**5**[0], RSMo.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RESCISSION

[20 CSR 2120-3.305 Funeral Director Agent Registration

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.310 Change in Seller Affiliation

Purpose: The purpose of this amendment is to amend the requirements relating to the a change in seller affiliation relating to an existing preneed contract.

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

(1) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller's preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:

(A) Name and address of the provider;
(B) License number of the provider;
(C) Name**,** [and] address **and signature** of the seller; and
(D) Effective date of the authorization or agreement.

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

*AUTHORITY: sections [333.325.4,] 333.340, **436.420,** and 436.520, RSMo Supp. 2009.* Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.405 Preneed Agent[s—Missouri Law Exam] **Registration**

Purpose: The amendment is intended up make modifications to clarify the processes necessary to pursue an agent registration and adds the requirements for an agent funeral director.

PURPOSE: This rule [prescribes] ***establishes*** *the process [for certifying preneed seller]* ***to secure an*** *agent[s to take the Missouri Law exam as a requirement for] registration.*

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

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

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

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

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

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

(1) Any individual who desires to be registered as a preneed agent shall:
A. Make application with the board on the forms provided by the board and pay applicable fees;
B. Shall provide the name, address and signature of each preneed seller who has authorized the applicant to sell, negotiate, or solicit preneed contracts on their behalf; and
C. Achieve a grade of seventy-five percent (75%) or greater on the Missouri Law examination.

(2) Any individual that is currently licensed by the board as a funeral director and desires to be registered as a preneed agent shall:
A. Make application with the board on the forms provided by the board.
B. Shall provide the name, address and signature of each preneed seller who has authorized the applicant to sell, negotiate, or solicit preneed contracts on their behalf;

(3) An applicant shall meet the requirements of the board for registration within one (1) year after his/her application has been filed with the State Board of Embalmers and Funeral Directors. If the

applicant fails to meet the requirements of the board within the required time and still desires to seek registration, a new application and applicable fees will be required.

(4) After initial application, if there is a change in a preneed seller that an agent is authorized to sell, negotiate, or solicit preneed contracts, the agent shall notify the board, on the form provided by the board, the name, address and signature of the new seller prior to the agent beginning to sell, negotiate, or solicit preneed contracts on behalf of that seller.

*AUTHORITY: sections 333.325.5 and 333.340, **and 436.520,** RSMo Supp. 2009.* Emergency rule filed Sept. 24, 2009, effective Oct. 4, 2009, terminated Nov. 2, 2009. Emergency rule filed Oct. 23, 2009, effective Nov. 2, 2009, expired April 1, 2010. Original rule filed Sept. 24, 2009, effective April 30, 2010.*

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RESCISSION

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

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

Purpose: The purpose of the proposed amendment is to simplify the language relating to acceptable funding mechanisms for preneed contracts.

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

(1) [Preneed contracts shall only be funded by:
(A) A preneed trust as defined by section 436.405.1(8), RSMo;
(B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or
(C) A joint account as defined by section 436.405.1(4), RSMo.]

(2)] Preneed contracts funded by any [other] mechanism **not provided for in Chapter 436** shall be non-compliant with the requirements of sections 436.400 to 436.52[0]**5**, RSMo. All non-compliant preneed contracts shall still be subject to regulation by the board under sections 436.400 to 436.52[0]**5**, RSMo.

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RESCISSION

[20 CSR 2120-3.515 Single Premium Annuity Contracts

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

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

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

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

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

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

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.525 [Independent Financial Advisor is Agent of Trustee] **Authorized External Investment Advisor**

PURPOSE: [This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract.] ***To set forth the qualifications and duties of an authorized external investment advisor for a preneed trust.***

(1) An [independent financial advisor] **authorized external investment advisor**, as provided in section 436.440.6 **and 436.445**, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.

(2) A preneed trust may utilize the services of an authorized external investment advisor as provided in Sections 436.435, .440 and .445, RSMo.

(3) Any authorized external investment advisor utilized by a preneed trustee must have a current and active federal or Missouri registration as an investment advisor at all times when he or she serves as an investment advisor for a preneed trust.

(4) Any authorized external investment advisor shall exercise his or her duties in compliance with the provisions of applicable state and federal laws including compliance with his or her fiduciary duties including the duties of loyalty and of care.

(5) Except as provided in Chapter 436, RSMo, only a preneed trustee may retain the services of an authorized external investment advisor to assist the preneed trustee with the investment of preneed trust assets.

(6) If a preneed trustee utilizes the services of authorized external investment advisor, that relationship shall be memorialized in a written agreement that discloses the scope of duties and powers delegated, the compensation to be paid to the authorized external investment advisor, any relationship or contracts between the authorized external investment advisor and the seller, any relationship or contract between the authorized external investment and advisor and any provider of any preneed contract for which funds are held in the seller's preneed trust, and any other provisions that the trustee deems necessary to meet its fiduciary duty to the preneed trust's beneficiaries.

(7) Any independent financial advisor, in place before August 28, 2009 in compliance with the provisions of Section 436.440.6, RSMo, must be either a federally registered or Missouri registered independent qualified investment advisor at all times when acting as an investment advisor for a preneed trust and must meet all requirements required of an authorized external investment advisor..

AUTHORITY: sections 333.340, 436.440.6, ***436.445,*** *and 436.520, RSMo Supp. 2009.* Emergency rule filed Dec. 4, 2009, effective Dec. 14, 2009, expired June 11, 2010. Original rule filed Dec. 4, 2009, effective June 30, 2010.*

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

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RULE

20 CSR 2120-3.530 Confidentiality of Preneed Records Obtained by the Board Through Financial Examination, Audit or Investigation (rule number is a proposed number)

Purpose: The purpose of this rule is to provide additional clarification of section 436.525.

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

(1) Upon completion of any financial exam, audit or investigation involving preneed records, the board members may be provided with a summary of the results of the exam, audit or investigation and any such summary shall not include information made confidential per Section 436.525, RSMo, unless such information is required for the board to evaluate whether the board should take further action.

(2) The board's executive director shall be the custodian of all records received and maintained by the board related to any financial examination, audit or investigation involving preneed records.

(3) No individual member of the board shall be given access to review the work papers of the examiners, auditors or investigator related to the examination, audit or investigation of preneed records unless such access has been specifically approved by the board, as a body. Work papers shall include any records or information obtained from any licensee, registrant or any other source that includes any information made confidential by Section 436.525, RSMo. Work papers shall also include any compilation, spreadsheet or other record prepared by the examiner, auditor or investigator from information and records obtained from the licensee, registrant or other source that contains information made confidential by Section 436.525, RSMo. Work papers shall not include any document that would otherwise be an open record under Missouri law.

(4) If the subject of any financial examination, audit or investigation is a person or entity that is a competitor either directly or indirectly within the same geographical region as an individual board member or is a person or entity with whom an individual Board member has a business interest or a past or current business relationship, then that board member shall recuse him or herself from all matters related to the board's review or action on that matter and shall have no access to the summary report or any other records from the financial examination, audit or investigation and shall not take part in any meeting or other proceeding involving that subject of exam, audit or investigation. Any recused board member under this rule may have access to any matter that would be available to any member of the public, and access, as needed, to provide evidence in any litigation or proceeding as any other fact witness would have.

Authority: ***Section 436.525, RSMo.***

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RULE

20 CSR 2120-3.535 Financial Examination Committee (rule number is a proposed number)

Purpose: The purpose of the proposed rule is to establish the guidelines for a committee to review financial examinations.

Purpose: The purpose of this rule is establish a committee to review financial examinations.

(1) The board shall have as a standing committee a committee known as the "Financial Examination Committee." The purpose of the Financial Examination Committee shall be to provide timely and expedited review of financial examination files as they are prepared by the board staff.
(2) The Financial Examination Committee shall meet, as needed, but at least once between each regularly scheduled board meeting.
(3) The members of the Financial Examination Committee shall be appointed by the board chair and shall be at least 2, but no more than 3, board members, one of whom shall be the public member, unless the public member declines to serve on the committee, then any board members may be appointed. Financial Examination Committee members shall be appointed each year by the board chair at the meeting in which the board holds its election of officers. Once appointed, a committee member shall serve until the next election of officers, unless the committee member resigns or if they are no longer a member of the board. In the case of a vacancy, the board chair shall appoint a new member to the Financial Examination Committee as soon as is practical to do so.
(4) The board delegates the following duties and authorities of the Financial Examination Committee:
(A) To review completed financial examination reports along with the licensee response and take one or more of the following actions:
(1) Direct staff to close the examination file and send a letter to licensee informing the licensee that the financial examination is being closed;
(2) Request additional information from the licensee and request the licensee to take steps necessary to resolve any exceptions discovered during the financial examination;
(3) Allow a licensee additional time to respond to requests for more information or time to complete steps necessary to meet requests of the Financial Examination Committee;
(4) Request the licensee to appear before the board;
(5) Refer the financial examination for review by the board; and
(6) Other duties as assigned by the board and/or the board chair.
(B) If a financial examination file reveals unresolved violations and/or reveals significant shortages of consumer funds held in trust and/or joint accounts or other significant misconduct by the licensee, as determined by the Financial Examination Committee, the committee shall refer the examination file to the board for review.
(3) Only the board may authorize action to seek legal action against a licensee.

Authority: Section 436.470, 436.520, 333.111, RSMo

Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED RULE

20 CSR 2120-3.540 Financial Examination-Audit Process and Procedures (rule number is a proposed number)

Purpose: This rule is being proposed to provide information to educate licensees and the public relating to the financial examination processes.

Purpose: This rule provides clarification of the financial examination process and procedures to assist licensees and the public.

(1) The board shall conduct a financial examination of the books and records of each seller at least once every five years, subject to available funding. The board shall take no action to reduce fees to intentionally reduce funding so as to eliminate financial examinations.

(2) The board shall conduct financial examinations or audits as a means to ensure compliance with the provisions of Missouri statutes and regulations under Chapters 333 and 436, RSMo, as those statutes relate to preneed funeral contracts.

(3) A seller may, at the board's discretion, be subject to financial examination more frequently than once every five years.

(4) Periodically, the board shall set the scope of financial examinations.

(5) Upon determining that a financial examination or audit of a seller is to be conducted, the board shall issue a notice to the assigned examiner that will instruct the examiner as to the scope of the financial examination or audit.

(6) Before the board begins a financial examination or audit, the board may provide notice to the seller that the board will be conducting a financial examination. This notice shall contain the following:
(A) Notice to the seller that the board will be conducting a financial examination or audit;
(B) A request of the seller to submit to the board specified records the board will require to begin the financial examination or audit and a date by which those records are due to the board. The board may request copies of statements showing trust balances and assets, joint account statements, verification of insurance for insurance funded preneed contracts, copies of ledgers or reports detailing all active preneed contracts, copies of agreements with providers, agents, trustees, and any other records the board deems relevant to conduct the financial examination or audit.

(7) A financial examination or audit may consist of the following phases:
(A) Phase I – The assigned examiner shall be given the notice of examination or audit assignment and shall review and analyze the records relevant to the financial examination or audit as provided;
(B) Phase II – If instructed, the assigned examiner shall conduct an on-site visit to the seller. During this on-site visit, the seller shall provide the examiner with all books and records requested by the examiner and shall fully cooperate with the examination or audit;
(C) Phase III – The board may conduct any additional inspections, investigations and examinations as deemed necessary to complete financial examination or audit. This may include mailing letters to purchasers, beneficiaries, financial institutions, preneed providers, persons acting on behalf of the seller, and other persons as deemed necessary to complete the financial examination or audit;
(D) Phase IV – Upon completion of Phases I through III, the examiner shall prepare a financial or audit examination report that shall summarize the findings of the financial examination or audit and shall include, at a minimum, the following information:
(1) The name, address and license number of the seller;

(2) The date(s) the examination was conducted;

(3) The name(s) of the examiner(s) conducting the examination or audit;

(4) The date(s) the financial examination or audit report was submitted to the board by the examiner;

(5) The name(s) of the person(s) providing information to the examiner on behalf of the seller;

(6) A listing of exceptions, if any, found during the financial examination or audit and provide sufficient detail of the exceptions to put the seller on notice as to any potential violations of law, and sufficient identifying information about the contract or funds held so that the seller will know which contracts are at issue. It shall be deemed sufficient identifying information if the examination or audit report contains, at a minimum, the initials of the purchaser or beneficiary, the number of the preneed contract, the date of the contract, the amount of the contract and the type of funding source of the preneed contract, if that information is known to the examiner;

(7) A copy of the signed attestation from the seller on the form provided the board, if applicable;

(8) Any exhibits that will assist in identifying and review of the exceptions;

(9) Any and all other information that is directed by the board to be included or is relevant to evaluate the seller's compliance with law.

(8) Upon submission of the financial examination or audit report by the examiner, the board shall provide a copy of the financial examination or audit report to the seller for review and comment, unless other provisions of law apply to authorize and/or mandate the board to take other action. The seller shall provide response within the timeframe provided by the board.

(9) After the time has expired for the seller to comment on the examination or audit report, the examination or audit report and any information received from the seller in response to the financial examination or audit report will be reviewed.

(10) Upon the board's determination that all exceptions identified in a financial examination or audit have been resolved, the board will provide written notice to the seller that the financial examination or audit has been closed by the board.

Authority: Sections 333.330, 333.340, 436.470, 436.520, RSMo

Rules Consent Agenda
August 4-5, 2015

1. 20 CSR 2120-1.010 General Organization
   Recommendation: Approve as drafted/proposed

2. 20 CSR 2120-1.020 Board Member Compensation
   Recommendation: Approve as drafted/proposed

3. 20 CSR 2120-1.040 Definitions
   Recommendation: Table to board

4. 20 CSR 2120-1.050 When Forms Considered Filed
   Recommendation: Approve as drafted/proposed

5. 20 CSR 2120-2.005 General Rules – Applicable to all Licensee and Registrants
   Recommendation: Table to board

6. 20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship
   Recommendation: Approve as drafted/proposed

7. 20 CSR 2120-2.020 Biennial License Renewal
   Recommendation: Approve as drafted/proposed

8. 20 CSR 2120-2.022 Disabled-Retired License/Registration
   Recommendation: Approve as drafted/proposed

9. 10 CSR 2120-2.030 Death Certificate Filings
   Recommendation: Approve as drafted/proposed

10. 20 CSR 2120-2.040 Licensure by Reciprocity
    Recommendation: Approve as drafted/proposed

11. 20 CSR 2120-2.050 Miscellaneous Rules
    Recommendation: Approve as drafted/proposed

12. 20 CSR 2120-2.060 Funeral Directing
    Recommendation: Approve as drafted/proposed

13. 20 CSR 2120-2.070 Funeral Establishments
    Recommendation: Approve as drafted/proposed

14. 20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area
    Recommendation: Approve as drafted/proposed

15. 20 CSR 2120-2.080 Written Statement of Charges
    Recommendation: Approve as drafted/proposed

16. 20 CSR 2120-2.090 Preparation Rooms/Embalming Room
    Recommendation: Approve as drafted/proposed

17. 20 CSR 2120-2.100 Fees
    Recommendation: Approve as drafted/proposed

18. 20 CSR 2120-2.110 — Public Complaint Handling and Disposition Procedure
Recommendation: Approve as drafted/proposed

19. 20 CSR 2120-2.115 — Procedures for Handling Complaints Against Board Members
Recommendation: Approve as drafted/proposed

20. 20 CSR 2120-.2120 — Public Records
Recommendation: Approve as drafted/proposed

21. 20 CSR 2120-2.130 — Final Disposition as Defined in Chapter 193
Recommendation: Approve as drafted/proposed

22. 20 CSR 2120-2.160 — Cemetery Exception
Recommendation: Approve as drafted/proposed

23. 20 CSR 2120-2.200 — Military Training to Meet Requirements for Licensure
Recommendation: Table to board

24. 20 CSR 2120-2.210 — Exemption for License Renewal Requirement for Active Duty Military and Stay of Administrative Actions Against A Licensee Serving on Active Military Duty
Recommendation: Table to board

25. 20 CSR 2120-2.220 — Renewal of Licenses for Military Members
Recommendation: Table to board

26. 20 CSR 2120-2.230 — Issuance of Temporary Courtesy License to Nonresident Military Spouse
Recommendation: Table to board

27. 20 CSR 2120-3.010 — Preneed Seller License
Recommendation: Approve as drafted/proposed

28. 20 CSR 2120-3.020 — Preneed Provider License
Recommendation: Approve as drafted/proposed

29. 20 CSR 2120-3.030 — Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)
Recommendation: Approve as drafted/proposed

30. 20 CSR 2120-3.105 — Filing of Annual Reports
Recommendation: Approve as drafted/proposed

31. 20 CSR 2120-3.115 — Contact Information
Recommendation: Approve as drafted/proposed

32. 20 CSR 2120-3.117 — Preneed Contract Numbering Requirements
Public Comments Received
Recommendation: Table to board

33. 20 CSR 2120-3.125 — Corporate Ownership of a Licensee
Recommendation: Approve as drafted/proposed

34. 20 CSR 2120-3.200 — Seller Obligations
Recommendation: Approve as drafted/proposed

35. 20 CSR 2120-3.205 — Mandatory Consumer Disclosures
Public Comments Received
Recommendation: Table to board

36. 20 CSR 2120-3.210 Formation Of An Insurance Funded Preneed Contract
Public Comments Received
Recommendation: Table to board

37. 20 CSR 2120-3.300 Provider Includes Funeral Establishment
Recommendation: Approve as drafted/proposed

38. 20 CSR 2120-3.305 Funeral Director Agent Registration
Recommendation: Approve as drafted/proposed

39. 20 CSR 2120-3.310 Change in Seller Affiliation
Recommendation: Approve as drafted/proposed

40. 20 CSR 2120-3.405 Preneed Agent Registration
Recommendation: Approve as drafted/proposed

41. 20 CSR 2120-3.410 Preneed Agent's Seller Must Be Licensed
Recommendation: Approve as drafted/proposed

42. 20 CSR 2120-3.505 Types of Financing; Other Financing Still Preneed
Recommendation: Approve as drafted/proposed

43. 20 CSR 2120-3.515 Single Premium Annuity Contracts
Recommendation: Approve as drafted/proposed

44. 20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee
Recommendation: Table to board

45. 20 CSR 2120-3.530 Confidentiality of Preneed Records Obtained by the Board Through Financial Examination, Audit or Investigation
Recommendation: Approve as drafted/proposed

46. 20 CSR 2120-3.535 Financial Examination Committee
Recommendation: Table to board

47. 20 CSR 2120-3.540 Financial Examination-Audit Process and Procedures
Recommendation: Approve as drafted/proposed

Staff Proposed Scope of Financial Examination

August 4-5, 2015

General

1. Is the seller licensed
2. Do the preneed contracts comply with the statutes as to form
3. Are the contracts properly signed
4. Does the seller properly deposit and track payments from consumers
5. Are the books and records sufficient to show compliance
6. Does the contract match the funding source and current location of funds
7. Does the seller have contracts with its providers and are those contracts in compliance with Ch. 436
8. Does the seller maintain its fulfilled files for 5 years
9. Does the seller records match the information provided on the seller annual report. (Review seller annual reports dating from last examination to current)
10. Review 100% of contracts sold since date of last examination materials
11. Were cancellations and/or transfers in compliance with statute
12. Mail consumer letters as needed to confirm data

Joint Accounts

13. Are the funds held jointly as required by statute
14. Are 100% of the funds paid by the consumer in the joint account
15. Are the seller's records adequate to verify compliance

Trust Accounts

16. Are deposits made timely
17. Have the right amounts of money been deposited
18. Does the trust agreement give control of assets to the trustee
19. Does the trust agreement comply with the statutes
20. Have all consumer payments been deposited – to include all contracts not yet fulfilled
21. Has the seller properly requested the 5% origination fee and 10% authorized distribution.
22. Has the trust made proper disbursements

Insurance Accounts

23. Do the policies comply with Ch. 436
24. Is the seller the beneficiary or assignee and not the owner
25. Does the seller properly handle consumer funds

Death Claims

26. Does the seller have proper procedures in place for death claims
27. Does the seller timely request payment from trustee and pay death claims
28. Does the seller pay the providers by the terms of the seller/provider contract
29. Complete a 5% or minimum of 20 contract review as sampling, increasing if concerns identified.