Monday, July 17, 2006 - 1:00 p.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Kenneth McGhee, Chairman, at 1:00 p.m. on Monday, July 17, 2006, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Board Members Present
Kenneth McGhee, Chairman
Marcia Shadel, Vice-Chairman
James Reinhard, Member
Martin Vernon, Member
Gary Fraker, Member
Joy Gerstein, Public Member/Secretary

Staff Present
Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Tabatha Lenzini, Licensure Technician
Kimberly Wilson, Clerk
Kimberly Grinston, Division’s Legal Counsel

Approval of Agenda
Motion was made by Marcia Shadel and seconded by Gary Fraker to approve the open agenda. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.
Closed Meeting.
Motion was made by Marcia Shadel and seconded by Gary Fraker to move into closed session and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and 620.010.14 Subsection (7) RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 620.010.14 Subsection (5) for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

Tuesday, July 18, 2006
The State Board of Embalmers and Funeral Directors returned to open session on Tuesday, July 18, 2006. The open meeting was called to order by Kenneth McGhee, Chairman, at approximately 9:10 a.m., at the Missouri Council of School Administrators Education Center, 3550 Amazonas Drive, Jefferson City, Missouri.

Board Members Present
Kenneth McGhee, Chairman
Marcia Shadel, Vice-Chairman
James Reinhard, Member
Martin Vernon, Member
Gary Fraker, Member
Joy Gerstein, Public Member/Secretary

Staff Present
Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Tabatha Lenzini, Licensure Technician
Kimberly Wilson, Clerk
Kimberly Grinston, Division’s Legal Counsel
Public Present
David Broeker, Division Director
Tom Reichard, Director of Budget and Legislation
Connie Clarkston, Budget Analyst
David Barrett, Division’s Legal Counsel
Tim Lueckenhoff, Central Investigative Unit
Don Eggen, Central Investigative Unit
Jim McMullin, Central Investigative Unit
Kevan Lager, Central Investigative Unit
Pete Fleishmann, Division of Professional Registration
Don Lakin, Lakin Funeral Home
Randy Singer, NPS
Darlene Russell, CRL
Dan Loesche
Ronald Poe
John McCullough, APS
Harvey Marks, Dept. of Health and Senior Services
Alena Vega, Dept. of Health and Senior Services
Steve Watkins, MFDA
Don Otto, MFDA/MFT
Greg W. Chamberlain, MFDA
Larry Stroud, MFDA
Bob Baker, MFDA
Andrew Wankum, Dept of Health and Senior Services
Mark Fornay, Memorial Funeral Home
John Frownfelter, DW Newcomers
Bonnie Fairchild, Buescher Memorial Home
Sarah Madden, Office of the Attorney General
Davis Biggs, ACM
Stephen Zell, ACM
Roger Licklider, MFDA
Cindy Kadlec, Joint Commission on Administrative Rules

Approval of Minutes

November 16, 2005 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the November 16, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

November 18, 2005 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the November 18, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.
December 5-6, 2005 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the December 5-6, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

December 12, 2005 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the December 12, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

December 14, 2005 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the December 14, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

December 20, 2005 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the December 20, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

December 30, 2005 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the December 30, 2005 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

January 4, 2006 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the January 4, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

January 17, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the January 17, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

January 20, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the January 20, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.
January 30, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the January 30, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

February 1, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the February 1, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

February 7, 2006 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the February 7, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

March 6-7, 2006 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the March 6-7, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

March 9, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the March 9, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

March 14, 2006 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the March 14, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

March 22, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the March 22, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.
March 29, 2006 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the March 29, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

April 18, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the April 18, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

May 1, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 1, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

May 4, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 4, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

May 10, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 10, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

May 19, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 19, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

May 31, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the May 31, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

June 2, 2006 Open Mail Ballot Meeting Minutes
Motion was made by Joy Gerstein and seconded by Martin Vernon to approve the June 2, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.
Division Director Introduction
Introduction of David Broeker, Division Director
Governor Blunt appointed David Broeker the Director of the Division of Professional Registration beginning July 2, 2006, replacing Alison Craighead who resigned that position. David Broeker, of Jefferson City, owned and operated his own business, DB Distributing Company, for the last 14 years. Prior to that, Mr. Broeker spent 17½ years in state government serving in the Governor’s Office, State Auditor’s Office, and the Department of Agriculture. He holds a bachelor’s degree in political science and law enforcement. Governor Matt Blunt issued Executive Order 06-04 on February 1, 2006, that created the Department of Insurance, Financial Institutions, and Professional Registration. By a Type III transfer the division will become a part of this new department on August 28. A type III transfer is the transfer of a department, division, agency, board, commission, unit, or program to the new department with only such supervision by the head of the department for budgeting and reporting. Mr. Broeker expressed his gratefulness to the Division’s and Boards’ staff for the support, advice, and counsel given to him. Mr. Broeker says he looks forward to working with all the associates in Professional Registration and continuing the excellent service the entire division has given the approximately 400,000 Missourians who are licensed and regulated and who represent 240 different trades and professions. Members of the board welcomed David Broeker as the new Division Director.

David Broeker, Division Director, introduced the Division staff that was present, to members of board and to the public.
Tom Reichard, Director of Budget and Legislation
Connie Clarkston, Budget Analyst
David Barrett, Division’s Legal Counsel
Tim Lueckenhoff, Central Investigative Unit
Don Eggen, Central Investigative Unit
Jim McMullin, Central Investigative Unit
Kevan Lager, Central Investigative Unit
Pete Fleishmann, Division of Professional Registration

Legislative/Rulemaking Process
Tom Reichard, Director of Budget and Legislation, offered a basic introduction to the legislative process.
Connie Clarkston, Budget Analyst, summarized the rulemaking process and provided a flowsheet of the steps that are followed. Ms. Clarkston introduced Cindy Kadlec, general counsel to the Joint Committee of Administrative Rules (JCAR). The JCAR is a statutory committee of the General Assembly consisting of five representatives and five senators. Their responsibility is to review rules promulgated by most every department in state government. Ms. Kadlec explained the JCAR process and possible outcomes.
David Barrett, Division’s Legal Counsel, explained his role in the rule-making process. When a rule is drafted, Mr. Barrett will determine if the board has the statutory authority to promulgate the rule, and who the rule will impact.
Executive Director's Report
Becky Dunn reported on the FY2006 Financial Statement as of May 31, 2006

<table>
<thead>
<tr>
<th></th>
<th>Year-To-Date</th>
<th>Projected</th>
<th>Remaining</th>
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<tbody>
<tr>
<td>FY 2006 Beginning Fund Balance</td>
<td>$863,989.25</td>
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<tr>
<td>Revenue</td>
<td>$918,723.00</td>
<td>$1,051,919.00</td>
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<td>Expense and Equipment</td>
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<td>Total Transfers</td>
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<tr>
<td>Ending Fund Balance</td>
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<td>1,276,548.13</td>
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</table>

FY 2006 OA Cost Allocation

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<tr>
<th></th>
<th>OA Expenditures</th>
<th>Auditor Expenditures</th>
<th>DOR Receipts</th>
<th>Treasurer Receipts</th>
<th>Retiree Health Care</th>
<th>Gen Assembly Expenditures</th>
<th>Total</th>
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<tbody>
<tr>
<td>Board Cost:</td>
<td>$1,104.70</td>
<td>$0.00</td>
<td>$6,389.00</td>
<td>$305.00</td>
<td>$0.00</td>
<td>$1,579.00</td>
<td>$9,965.00</td>
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<tr>
<td>Governor Expenditures</td>
<td>$101.00</td>
<td>$23.00</td>
<td>$521.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$1,579.00</td>
<td>$9,965.00</td>
</tr>
<tr>
<td>Lt. Governor Expenditures</td>
<td>$189.29</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$591.18</td>
</tr>
<tr>
<td>Sec. Of State Expenditures</td>
<td>$18.27</td>
<td>$4.15</td>
<td>$94.12</td>
<td>$0.00</td>
<td>$285.35</td>
<td>$591.18</td>
<td></td>
</tr>
</tbody>
</table>

FY2006 Total Cost: $10,556.18

Legislation 2006
The Executive Director provided the board with a list of legislative actions taken by Governor Matt Blunt during the 93rd Legislative Session of the General Assembly.

**H1026** sponsored by Representative Martin T. Rucker, makes it a class B misdemeanor to picket or protect in front of or about any location at which a funeral is held within one hour prior to the commencement and until one hour following the cessation of any funeral. Any subsequent violation will be a class A misdemeanor. This bill was truly agreed and finally passed by the legislature and approved by Governor Matt Blunt on July 6, 2006 with emergency clause, that this bill becomes effective immediately. SB 917 was truly agreed and finally passed by the Legislature and signed by Acting Governor, Senator Michael R. Gibbons on February 23, 2006, that prohibits a person from picketing or protesting in front of or about any church, cemetery, or funeral establishment. Chairman McGhee thanked the Missouri Funeral Director Association for their role in getting this bill passed. Don Otto, representative of the Missouri Funeral Director Association, thanked the board and everyone in attendance for their support of the bill.

Legislation 2007
At this time the board does not have pending legislation for the upcoming session of the General Assembly.
Rules
At the March 6-7, 2006 meeting, the board made changes and approved the following board regulations. The board regulations have now been reviewed and approved by the Division of Professional Registration and will be submitted to the department for processing.

Proposed Amendment – 4 CSR 120-1.010 General Organization.
Proposed Amendment – 4 CSR 120-1.040 Definitions.
Proposed Amendment – 4 CSR 120-2.010 Embalmer’s Registration and Apprenticeship.
Proposed Amendment – 4 CSR 120-2.040 Licensure by Reciprocity.
Proposed Amendment – 4 CSR 120-2.050 Miscellaneous Rules.
Proposed Amendment – 4 CSR 120-2.060 Funeral Directing.
Proposed Amendment – 4 CSR 120-2.070 Funeral Establishments.
Proposed Amendment – 4 CSR 120-2.071 Funeral Establishments Containing a Crematory Area.
Proposed Amendment – 4 CSR 120-2.090 – Preparation Rooms/Embalming Room.
Proposed Amendment – 4 CSR 120-2.100 Fees.

News Release
News releases for the following persons were provided to member of the board for informational purposes only.
Donald Holt, Holt Funeral Home
Institute of Justice, Larry Gegner
Kimberly Grinston, Board’s Legal Counsel, updated the board and members of the public on some of the press issues that were released on the Larry Gegner case. This case has been concluded. The Institute of Justice, involved with the case, did issue a press release on the completion of the litigation. The board responded to all media inquiries that were directed to the board. The goal and intention of the board was to make sure that everyone engaged in the practice of funeral directing is appropriately licensed. The board filed a lawsuit asking for a permanent injunction to prohibit Mr. Gegner from performing any unlicensed activity and Mr. Gegner agreed to the injunction and the injunction was issued.

Joshua Slocum, Funeral Consumer Alliance
The board reviewed an email received from Joshua Slocum, Funeral Consumer Alliance, relative to private burials with regards to the board’s proposed regulations; other Missouri Law that govern or prohibit private disposition; health risks and related health requirements; and a proposal for the board to consider that would provide families with guidance on how to legally accomplish a private disposition. Chairman McGhee asked the Department of Health if they would have any comments or any kind of statements to help clarify what the funeral regulations require licensees to do.
Andrew Wankum, Office of Governmental Policy and Legislation, and Harvey Marks, Communicable Disease Control and Prevention, both with the Department of Health and Senior Services, addressed members of the board and the public attendees with concerns in protecting consumers in the State of Missouri. This presentation is not summarized in the minutes. A copy of the open meeting transcription will be maintained on file at the Board office.
Anaya Bridget
The board reviewed an email from Bridget Anaya, Charter Funerals, regarding charging an additional fee when a casket is delivered from an outside provider relative to disposing of the extra packing materials that come with the casket. Chairman McGhee advised the board that he talked with the attorney for National Funeral Directors’ Association and was advised not to charge for handling and packing.

Embalmer and Funeral Director Late Renewal Report
The Executive Director provided a Embalmer and Funeral Director 2006-2008 renewal report.

As of June 27, 2006:
2328  Active Funeral Directors
1098  Active Embalmers
11   Active Limited Funeral Directors
85   Embalmers that are NOT currently in active status
80   Funeral Directors that are NOT currently in active status

Retired Licensees
39   Funeral Directors
13   Embalmers
6 of these were dually licensed

Deceased Licensees
28   Funeral Directors
13   Embalmers
11 of these were dually licensed

Upcoming Conference
The Council on Licensure, Enforcement and Regulation (CLEAR) will be hosting their Annual Conference, September 14-16, 2006, in Alexandria, Virginia. If any board member is interested on attending the CLEAR Conference, please contact the board office.

The National Funeral Directors’ Association will be hosting their 2006 NFDA Convention and Expo, on October 15-18, 2006, in Philadelphia, Pennsylvania. If any board member is interested on attending the convention, please contact the board office.

Public Suggestions/Proposals
The board requested public suggestions and proposals for review and consideration. Chairman McGhee made sure that all board members and the public attending the meeting were provided a copy of the comments provided to the Board by the following:
Statute and Regulation Proposals from the State Board of Embalmers and Funeral Directors.
Don Otto, Missouri Funeral Directors Association Presentation, presented to the board July 18, 2006.
Don Otto, Missouri Funeral Trust Presentation, presented to the board July 18, 2006
The members and attendees were asked to review the submissions prior to Statements/Presentations from the public.

The following individuals signed in with Open Meeting Statements:
Don Lakin, Lakin Funeral Home
Don Otto, MFDA/MFT
Randy Singer, NPS
Darlene Russell, CRL
Steve Watkins, MFDA

Statements and Presentation are not summarized in the minutes. A copy of the open meeting transcription will be maintained on file at the Board office.

Statute and Regulation Proposals from the State Board of Embalmers and Funeral Directors are as follows. Areas bolded are proposed new language, those in brackets are proposed deletions, and those italicized has been questioned from the industry for possible modifications.

Chapter 333
EMBALMERS AND FUNERAL DIRECTORS

Sec 333.011. Definitions.
Sec 333.021. Unlicensed person not to engage in practice of embalming or funeral directing.
Sec 333.031. Application for license--fees--examination.
Sec 333.041. Qualifications of applicants--examinations--licenses--board may waive requirements in certain cases.
Sec 333.042. Application and examination fees for persons wanting to be funeral directors, apprenticeship requirements--examination content for applicants--apprenticeship duties--appearance before board--limited license only for cremation--exemptions from apprenticeship.
Sec 333.051. Licenses for nonresidents--recognition of persons licensed in other states--fees.
Sec 333.061. No funeral establishment to be operated by unlicensed person--license requirements, application procedure--license may be suspended or revoked or not renewed.
Sec 333.071. Business to be conducted where.
Sec 333.081. License renewal, fee--failure to renew, effect--business address required.
Sec 333.091. License to be recorded, displayed.
Sec 333.101. Places of business may be inspected.
Sec 333.111. Rules and regulations of board, procedure--fees, how set.
Sec 333.121. Denial, suspension, or revocation of license, grounds for.
Sec 333.145. Written statement of charges, required when, content--merchandise prices to be indicated.
Sec 333.151. Board members--qualifications--terms--vacancies.
Sec 333.161. Board members to take oath.
Sec 333.171. Board meetings--notice--quorum--seal.
Sec 333.181. Officers of board.
Sec 333.201. Examinations, notice, published, when.
Sec 333.221. Compensation of board members--board may employ personnel.
Sec 333.231. Fund created, use, funds transferred to general revenue, when.
Sec 333.241. Unlawful practices, injunctions.
Sec 333.251. Application of law.
Sec 333.261. Violations are misdemeanors.

CROSS REFERENCES
All license, permit and certificate applications shall contain the Social Security number of the applicant, RSMo 620.127
Board appointments, discrimination prohibited, RSMo 620.120
Cremation, disposition of remains, special procedure if no directions are given, notice, publication required when, RSMo 194.350
Disciplinary proceedings against persons or entities licensed, certified or registered by the division of professional registration, time limitations to commence action, exceptions, RSMo 620.154
Military service, exemption from certification requirements, RSMo 41.950
Next-of-kin defined, right of sepulcher, RSMo 194.119
Nursing home resident, death of, no transfer until certain persons contacted, RSMo 198.071
Refusal to grant license, hearing by administrative hearing commission, procedure, RSMo 621.120
Rules and regulations, occupations and professions, suspension and reinstatement procedure, RSMo 620.125.

333.011. Definitions. -- As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:
(1) "Board", the state board of embalmers and funeral directors created by this chapter;
(2) "Embalmer", any individual licensed to engage in the practice of embalming;
(3) "Funeral director", any individual licensed to engage in the practice of funeral directing;
(4) "Funeral establishment", a building, place, crematory or premises devoted to or used in the care and preparation for burial 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;
(5) "Person" includes a corporation, partnership or other type of business organization;
(6) "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, or otherwise, of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;
(7) "Practice of funeral directing", engaging by an individual in 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 funeral establishment.

333.021. Unlicensed person not to engage in practice of embalming or funeral directing.--
1. No person shall engage in the practice of embalming in this state unless he has a license as required by this chapter.
2. No person 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 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.

333.031. Application for license--fees--examination.—
Each application for a license to practice either embalming or funeral directing shall be in writing, addressed to the board, on forms prescribed, verified and shall contain such information as is required by the board. The application shall include a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration. Each application shall be accompanied by an embalming fee or funeral directing fee. Any applicant for both a license to practice embalming and to practice funeral directing shall pay both fees. If any applicant for a license to practice embalming or funeral directing fails to pass the examination given by the board, he may be given a [other] reexamination[s] upon payment of a reexamination fee.

333.041. Qualifications of applicants--examinations--licenses--board may waive requirements in certain cases.—
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 or equivalent thereof;
   (2) Either a citizen or a bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice funeral directing upon the grant of a license to do so; and
   (3) 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 an accredited institution of mortuary science education shall register with the board as a practicum student upon the form provided by the board. After such registration, a student may assist, under the direct supervision of Missouri licensed embalmers and funeral directors, in Missouri licensed funeral establishments, while serving his or her practicum for the accredited institution of mortuary science education. The form for registration as a practicum student shall be accompanied by a fee in an amount established by the board.
3. Each applicant for a license to practice embalming shall furnish evidence to establish to the satisfaction of the board that he or she:
   (1) Is at least eighteen years of age, and possesses a high school diploma or equivalent thereof;
   (2) Is either a citizen or bona fide resident of the state of Missouri or entitled to a license pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of Missouri who is employed by a funeral establishment located within the state of Missouri, to practice embalming upon the grant of a license to do so;
   (3) Is a person of good moral character;
   (4) Has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education, or any successor organization recognized by the United States
Department of Education, for funeral service education. If an applicant does not appear for the final examination before the board, or **designee of the board**, within five years from the date of his or her graduation from an accredited institution of mortuary science education, his or her registration as a student embalmer shall be automatically canceled;

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

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

4. If the applicant does not appear for oral examination within the five years after his or her graduation from an accredited institution of mortuary science education, 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 or **other designee**. The board shall by rule and regulation prescribe the standard for successful completion of the examinations.

6. 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.

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.

333.042. Application and examination fees for persons wanting to be funeral directors, apprenticeship requirements--examination content for applicants--apprenticeship duties--appearance before board--limited license only for cremation--exemptions from apprenticeship.--

1. Every person desiring to enter the profession of funeral directing in this state shall make application with the state board of embalmers and funeral directors and pay the current application and examination fees. Applicants not entitled to a license pursuant to section 333.051 shall serve an
apprenticeship for 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 [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 canceled.

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 and successfully complete the Missouri law examination. He or she shall be exempt from the twelve-month apprenticeship and the [practical 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 funeral director practical examination.

3. If an individual is a Missouri licensed embalmer or has graduated from an institute of mortuary science education accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department of Education for funeral service education, or has successfully completed a course of study 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, 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.

333.051. Licenses for nonresidents--recognition of persons licensed in other states--fees.--

1. Any nonresident individual holding a valid, unrevoked and unexpired license as a funeral director or embalmer in the state of his 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 qualifications as is required by the board. No license shall be granted to a nonresident applicant except one who resides in a county contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of funeral directing or embalming, as defined by this chapter, at funeral establishments within this state or in an establishment located in a county contiguous and adjacent to the state of Missouri, unless the law of the state of the applicant's residence authorizes the granting of licenses to practice funeral directing in such state to persons licensed as funeral directors under the law of the state of Missouri.

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 who is or intends to become a resident of 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 Missouri State Board of Embalmers and Funeral Directors
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applicant holds his license showing the grade rating upon which his license was granted, together with
a recommendation, and the board shall grant the applicant a license upon his 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 proficiency, including but not
limited to a knowledge of the laws and regulations of this state as to funeral directing and embalming.

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

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

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

(1) That the establishment is under the general management and the supervision of a duly licensed
funeral director that shall be designated as the Funeral Director in Charge;

(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

Each funeral establishment shall maintain a register log, as defined by 4 CSR 120-1.1040(9). 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 must contain the information
required by 4 CSR 120-1.1040(9).

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

3. The board shall grant or deny each application for a license pursuant to this section within
thirty days after it is filed. The applicant may request in writing up to two thirty-day extensions of the
application, provided the request for an extension is received by the board prior to the expiration of
the thirty-day application or extension period.
4. Licenses shall be issued pursuant to this section upon application and the payment of a funeral establishment fee and shall be renewed at the end of the licensing period on the establishment's renewal date.

5. The board may refuse to renew or may suspend or revoke any license issued pursuant to this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license, or for the violation by the owner of the funeral establishment of any of the provisions of section 333.121. 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 shall be followed.

333.071. Business to be conducted where.--

The business or profession of an individual licensed to practice embalming or funeral directing shall be conducted and engaged in a funeral establishment. This section does not prevent a licensed funeral director owning or employed by a licensed funeral establishment from conducting an individual funeral from another and different funeral establishment or at a church, a residence, public hall, or lodge room.

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

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(s) 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 in writing 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. The holder of an expired license shall be issued a new license by the board within two years of the renewal date after he or she has paid delinquent renewal fees. Any license not renewed within two years shall be void.

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

333.091. License to be recorded, displayed.--

Each establishment, funeral director or embalmer receiving a license under this chapter shall have the license recorded in the office of the local registrar of vital statistics of the registration district in which the licensee practices. The licenses, registrations and certificates, or duplicates shall be displayed in the office(s) or place(s) of business.
333.101. Places of business may be inspected.--

The board or any member thereof or any agent duly authorized by it may enter the office, premises, establishment or place of business of any funeral service licensee in this state or any office, premises, establishment or place where the practice of funeral directing or embalming is carried on, or where such practice is advertised as being carried on for the purpose of inspecting said office, premises or establishment and for the purpose of inspecting the license and registration of any licensee and the manner and scope of training given by the licensee to the intern operating therein.

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

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, RSMo. 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, RSMo.

333.121. Denial, suspension, or revocation of license, grounds for.--

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to 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 right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, 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 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, RSMo, 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 an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

   (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to 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 to this chapter;

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

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) 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;

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 436, RSMo;

(16) Presigning a death certificate or signing a death certificate on a body not embalmed by, or under the personal supervision of, the licensee;

(17) Obtaining possession of or embalming a dead human body without express authority to do so from the person entitled to the custody or control of the body;

(18) Failure to execute and sign the reverse side of a death certificate on a body embalmed by, or under the personal supervision of, a licensee;

(19) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(20) Willfully and through undue influence selling a funeral;

(21) 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, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, 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 the license, certificate, or permit.

333.145. Written statement of charges, required when, content--merchandise prices to be indicated.--

1. Every funeral firm in this state or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead
human body, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement signed by the purchaser or purchasers or their legal representatives, and a representative of the funeral establishment, showing to the extent then known:

1. The price of the service that the person or persons have selected and what is included therein;
2. The price of each of the supplemental items of service or merchandise requested;
3. The amount involved for each of the items for which the firm will advance moneys as an accommodation to the family;
4. The method of payment.

2. A funeral establishment shall not bill or cause to be billed any item that is referred to as a "cash advance" item unless the net amount paid for such item or items by the funeral establishment is the same as is billed by the funeral establishment.

3. All merchandise displayed in or by funeral establishments in this state shall have the price of the merchandise and included services, if any, clearly marked or indicated on the merchandise at all times.

333.151. Board members--qualifications--terms--vacancies.--
1. The state board of embalmers and funeral directors shall consist of six members, including one voting public member, appointed by the governor with the advice and consent of the senate. Each member, other than the public member, appointed shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than three members of the board shall be of the same political party. The president of the Missouri Funeral Directors Association in office at the time shall each, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Funeral Directors Association shall each include in his or her letter of transmittal a description of the method by which the names were chosen by that association.
2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor.
3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.
CROSS REFERENCE
Public member, additional duties, RSMo 620.132
333.161. Board members to take oath.--
Each member of the board shall be duly commissioned by the governor and shall take and subscribe an oath to support the Constitution of the United States and the state of Missouri and to demean himself faithfully in office. A copy of the oath shall be endorsed on the commission.

333.171. Board meetings--notice--quorum--seal.--
The board shall hold at least two regular meetings each year for the purpose of administering examinations at times and places fixed by the board. Other meetings shall be held at the times fixed by regulations of the board or on the call of the chairman of the board. Notice of the time and place of each regular or special meeting shall be mailed by the executive director to each member of the board at least five days before the date of the meeting. At all meetings of the board three members constitute a quorum. The board may adopt and use a common seal.

333.181. Officers of board.--
At one of its regular meetings, the board shall elect a chairman, vice chairman and secretary from the members of the board. Each such officer shall serve as such for a term fixed by regulation of the board and shall perform such duties as are required by the regulations of the board and by law.

333.201. Examinations, notice, published, when.--
The board shall publish notice of each examination held by the board at least thirty days before any examination is to be held, advising the time and place of the examination.

333.221. Compensation of board members--board may employ personnel.--
1. Each member of the board shall receive as compensation an amount set by the board not to exceed seventy dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of his expenses necessarily incurred in the discharge of his official duties.

2. The board shall employ such board personnel as may be necessary to carry out the provisions of this chapter. Board personnel shall include an executive director or comparable position, inspectors, investigators, attorneys and secretarial support staff of these positions, as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as is necessary for the administration of this chapter.

333.231. Fund created, use, funds transferred to general revenue, when.--
1. All fees payable under this chapter shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Board of Embalmers and Funeral Directors' Fund".

2. All compensation of board members and employees and all expenses incident to the administration of this chapter shall be paid out of the board of embalmers and funeral directors' fund. No expense of this board shall ever be paid out of any other fund of the state, either by deficiency bill or otherwise.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then
three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

333.241. Unlawful practices, injunctions.--
1. Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:
   (1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or
   (2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee.
2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.
3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

333.251. Application of law.--
Nothing in this chapter shall apply to nor in any manner interfere with the duties of any officer of local or state institutions, nor shall this chapter apply to any person engaged simply in the furnishing of burial receptacles for the dead, but shall only apply to persons engaged in the business of embalming or funeral directing.

333.261. Violations are misdemeanors.--
Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

Chapter 436 - SPECIAL PURPOSE CONTRACTS
FUNERAL CONTRACTS

Sec 436.005. Definitions.
Sec 436.007. Preneed contract voidable if not in compliance with requirements --payment recoverable, when--exceptions to requirements.
Sec 436.011. Seller to have contract with provider, violation--knowledge of false designation as provider, failure to act, effect.
Sec 436.015. Requirements for providers--sale of assets of provider, procedure, violations, effect.
Sec 436.021. Requirements for sellers--sale of assets or intent to go out of business, procedure, waived when, violation, effect.
Sec 436.027. Seller to return initial payments--percentage authorized.
Sec 436.031. Trustee of preneed trust to be chartered financial institution --powers and duties--cost of administration--termination of trust.
Sec 436.035. Purchaser may cancel contract, procedure--seller to return all payments made by purchaser--certain rights of public aid recipients.

Sec 436.038. Death of beneficiary outside area served by designated provider.

Sec 436.041. Default by purchaser, seller may cancel contract, when, procedure.

Sec 436.045. Payment to provider for services, when--trustee to distribute amount deposited on contract to seller.

Sec 436.048. Default by seller to pay purchaser or providers.

Sec 436.051. Death or legal incapacity of purchaser.

Sec 436.053. Certain funds may be in joint account in lieu of trust--requirements --waiver of reporting fee, when--waiver of right to cancel, effect.

Sec 436.055. Complaints to board--investigation, by whom, procedure.

Sec 436.061. Violations, penalties.

Sec 436.063. Revocation or suspension of seller's registration--procedure.

Sec 436.065. Option for credit life on life of purchaser--authorized.

Sec 436.067. Confidentiality of information given to board, division or attorney general--exceptions.

Sec 436.069. Annual reporting fee, amount.

Sec 436.071. Registration fee.

CROSS REFERENCES
Disciplinary proceedings against persons or entities licensed, certified or registered by the division of professional registration, time limitations to commence action, exceptions, RSMo 620.154
Farm implement dealers' agreement with manufacturer, regulation, RSMo 407.838 to 407.848
Next of kin defined, right of sepulcher, RSMo 194.119

FUNERAL CONTRACTS

436.005. Definitions. -- As used in sections 436.005 to 436.071, unless the context otherwise requires, the following terms shall mean:

(1) "Beneficiary", the individual who is to be the subject of the disposition and who will receive funeral services, facilities or merchandise described in a preneed contract;

(2) "Division", the division of professional registration of the [department of economic development] Department of Insurance, Financial Institutions and Professional Registration;

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums if, but only if, such items are sold:
   (a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or
   (b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

(4) "Person", any individual, partnership, corporation, cooperative, association, or other entity;

(5) "Preneed contract", any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a
membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance;

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;
(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;
(8) "Purchaser", the person who is obligated to make payments under a preneed contract;
(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;
(10) "State board", the Missouri state board of embalmers and funeral directors;
(11) "Trustee", the trustee of a preneed trust, including successor trustees.

436.007. Preneed contract voidable if not in compliance with requirements --payment recoverable, when--exceptions to requirements.--

1. Each preneed contract made after August 13, 1982, shall be void and unenforceable unless:
   (1) It is in writing;
   (2) It is executed by a seller who is in compliance with the provisions of section 436.021;
   (3) It identifies the contract beneficiary and sets out in detail the final disposition of the dead body and funeral services, facilities, and merchandise to be provided;
   (4) It identifies the preneed trust into which contract payments shall be deposited, including the name and address of the trustee thereof;
   (5) The terms of such trust and related agreements among two or more of the contract seller, the contract provider, and the trustee of such trust are in compliance with the provisions of sections 436.005 to 436.071;
   (6) It contains the name and address of the seller and the provider.

2. If a preneed contract does not comply with the provisions of sections 436.005 to 436.071, all payments made under such contract shall be recoverable by the purchaser, his heirs, or legal representative, from the contract seller or other payee thereof, together with interest at the rate of ten percent per annum and all reasonable costs of collection, including attorneys’ fees.

3. Each preneed contract made before August 13, 1982, and all payments and disbursements under such contract shall continue to be governed by sections 436.010 to 436.080, as those sections existed at the time the contract was made; but, the provisions of subsection 2 of section 436.035 may be applied to all preneed contracts which are executory on August 13, 1982.

4. Subject to the provisions of subdivision (5) of section 436.005, the provisions of sections 436.005 to 436.071 shall apply to the assignment of proceeds of any contract of insurance for the purpose of funding a preneed contract or written in conjunction with a preneed contract. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any insurance sold with a preneed contract.

5. No preneed contract shall become effective unless and until the purchaser thereof has placed his signature in a space provided on such contract, or application therefor, and the purchaser has received a copy of such contract signed by the seller.

6. The seller and the provider of a preneed contract may be the same person.
436.011. Seller to have contract with provider, violation--knowledge of false designation as provider, failure to act, effect.--

1. Any seller who designates a person as a provider in a preneed contract without a contractual relationship with such person is in violation of the provisions of sections 436.005 to 436.071.

2. Any person who knowingly permits a seller to sell a preneed contract designating him as the provider or as one of two or more providers who will furnish the funeral merchandise and services described in the preneed contract shall provide the funeral merchandise and services described in the preneed contract for the beneficiary. Failure of any such person to do so shall be a violation of the provisions of sections 436.005 to 436.071 and shall be cause for suspension or revocation of that person's license under the provisions of section 333.061, RSMo.

3. If a provider has knowledge that a seller is designating him as the provider of funeral merchandise and services under any preneed contract and fails within thirty days after first obtaining such knowledge to take action to prevent the seller from so designating him as the provider, the provider shall be deemed to have consented to such designation.

436.015. Requirements for providers--sale of assets of provider, procedure, violations, effect.--

1. No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

   (1) Such person is licensed by the state board as a funeral establishment pursuant to the provisions of section 333.061, RSMo, but such person need not be licensed as a funeral establishment if he is the owner of real estate situated in Missouri which has been formally dedicated for the burial of dead human bodies and the contract only provides for the delivery of one or more grave vaults at a future time and is in compliance with the provisions of chapter 214, RSMo; and

   (2) Such person is registered with the state board and files with the state board a written 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 board of its books and records which contain information concerning preneed contracts sold for, in behalf of, or in which he is named as provider of the described funeral merchandise or services.

2. Each provider under one or more preneed contracts shall:

   (1) Furnish the state board in writing with the name and address of each seller authorized by the provider to sell preneed contracts in which the provider is named as such within fifteen days after the provider signs a written agreement or authorization permitting the seller to sell preneed contracts designating or obligating the provider as the "provider" under the contract. This notification requirement shall include a provider who, itself, acts as seller;

   (2) File annually with the state board a report which shall contain:

      (a) The business name or names of the provider and all addresses from which it engages in the practice of its business;

      (b) The name and address of each seller with whom it has entered into a written agreement since last filing a report;

      (c) The name and address of the custodian of its books and records containing information about preneed contract sales and services;

   (3) Cooperate with the state board, the office of the attorney general of Missouri, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071;
(4) At least thirty days prior to selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business, give written notification to the state board and to all sellers with whom it has one or more preneed contracts of its intent to engage in such sale or to cease doing business. In the case of a sale of assets or stock, the written notice shall also contain the name and address of the purchaser. Upon receipt of such written notification, the state board may take reasonable and necessary action to determine that any preneed contracts which the provider is obligated to service will be satisfied at the time of need. The state board may waive the requirements of this subsection, or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within thirty days shall constitute such a waiver. At the same time as notice is provided to the state board, written notice must be provided by the provider to all purchasers that the establishment is selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business and indicating what establishment will be assuming responsibility for the preneed contracts.

3. It is a violation of the provisions of sections 436.005 to 436.071 and subdivision (3) of section 333.121, RSMo, for any person to sell, transfer or otherwise dispose of the assets of a provider without first complying with the provisions of subdivision (4) of subsection 2 of this section. This violation shall be in addition to the provisions of section 436.061.

4. If any licensed embalmer, funeral director or licensed funeral establishment shall knowingly allow such licensee's name to be designated as the provider under, or used in conjunction with the sale of, any preneed contract, such licensee shall be liable for the provider's obligations under such contract.

5. With respect to a provider or seller licensed under the provisions of chapter 333, RSMo, any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of subdivision (3) of section 333.121, RSMo.

436.021. Requirements for sellers--sale of assets or intent to go out of business, procedure, waived when, violation, effect.--

1. No person, including without limitation a person who is a provider under one or more preneed contracts, 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 that sale, performance, agreement, or designation, that person shall:

   (1) Be an individual resident of Missouri or a business entity duly authorized to transact business in Missouri;

   (2) Have established, as grantor, a preneed trust or trusts with terms consistent with sections 436.005 to 436.071 except for contracts of insurance;

   (3) Have registered with the state board.

2. Each seller under one or more preneed contracts shall:

   (1) Maintain adequate records of all such contracts and related agreements with providers and the trustee of preneed trusts regarding such contracts, including copies of all such agreements;

   (2) Notify the state board in writing of the name and address of each provider who has authorized the seller to sell one or more preneed contracts under which the provider is designated or obligated as the contract's "provider";

   (3) File annually with the state board a signed and notarized report on forms provided by the state board. Such a report shall only contain:

      (a) The date the report is submitted and the date of the last report;
(b) The name and address of each provider with whom it is under contract;
(c) The total number of preneed contracts sold in Missouri since the filing of the last report;
(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;
(e) The name and address of the financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to 436.071 and the account numbers of such trust accounts;
(f) A consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of the trust account, designated by depository and account number. The board may also order an investigation to determine compliance with Chapter 436. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;
(4) File with the state board a consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;
(5) Cooperate with the state board, the office of the attorney general, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071.
3. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board may take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within sixty days shall constitute such a waiver.
4. It is a violation of the provisions of sections 436.005 to 436.071 for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.

436.027. Seller to return initial payments--percentage authorized.--

The seller may retain as his own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he has received for his use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract.
436.031. Trustee of preneed trust to be chartered financial institution --powers and duties--cost of administration--termination of trust.--

1. 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 by the seller of a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to 436.071. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trust's grantor is the seller of all such preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment and care under circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. A preneed trust agreement may provide that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the seller who established the trust; provided, that title to all investment assets shall remain with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the seller. In no case shall control of said assets be divested from the trustee nor shall said assets be placed in any investment which would be beyond the authority of a reasonably prudent trustee to invest in. The trustee shall be relieved of all liability regarding investment decisions made by such qualified investment advisor.

3. The seller of a preneed contract shall be entitled to all income, including, without limitation, interest, dividends, and capital gains, and losses generated by the investment of preneed trust property regarding such contract, and the trustee of the trust may distribute all income, net of losses, to the seller at least annually; but no such income distribution shall be made to the seller if, and to the extent that, the distribution would reduce the aggregate market value on the distribution date of all property held in the preneed trust, including principal and undistributed income, below the sum of all deposits made to such trust pursuant to subsection 1 of this section for all preneed contracts then administered through such trust.

4. All expenses of establishing and administering a preneed trust, including, without limitation, trustee's fees, legal and accounting fees, investment expenses, and taxes, shall be paid or reimbursed directly by the seller of the preneed contracts administered through such trust and shall not be paid from the principal of a preneed trust.

5. The trustee of a preneed trust shall maintain adequate books of account of all transactions administered through the trust and pertaining to the trust generally. The trustee shall assist seller who established the trust or its successor in interest in the preparation of the annual report described in subdivision (3) of subsection 2 of section 436.021. The seller shall furnish to each contract purchaser, within fifteen days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract.

6. All payments made to a preneed contract shall be deposited into the trust account within sixty (60) days of receiving it pursuant to provisions set forth in section 436.027.

[6][7] The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to 436.071.
[7]8. A preneed trust shall terminate when 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.

436.035. Purchaser may cancel contract, procedure--seller to return all payments made by purchaser--certain rights of public aid recipients.--

1. At any time before the final disposition of the dead body, or before funeral services, facilities, or merchandise described in a preneed contract are provided by the provider designated in the preneed contract, the purchaser may cancel the contract without cause by delivering written notice thereof to the seller and the provider. Within fifteen days after its receipt of such notice, the seller shall pay to the purchaser a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt for such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

2. Notwithstanding the provisions of subsection 1 of this section, if a purchaser is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subsection 1 of this section, which waiver and renunciation shall be made in writing and delivered to the contract seller; but the purchaser may designate and redesignate the provider in the irrevocable agreement or plan where applicable by the terms of the contract.

3. Notwithstanding the provisions of subsection 1 of this section, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the seller and the provider, and receive a full refund of all payments made on the contract. Notice of this provision and the appropriate addresses for notice of cancellation shall be so designated on the face of the contract.

436.038. Death of beneficiary outside area served by designated provider.--

If the death of the beneficiary occurs outside the general area served by the provider designated in a preneed contract, then the seller shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the next of kin of the purchaser or, at the seller's option, shall pay over to the purchaser in fulfillment of all obligations under the contract, an amount equal to all sums actually paid in cash by the purchaser under the preneed contract together with interest to be provided for in the contract. Upon seller's full performance under the provisions of this section, the trustee of the preneed trust for the contract shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

436.041. Default by purchaser, seller may cancel contract, when, procedure.--

If the payments payable under a preneed contract shall be more than three months in arrears, the seller may cancel the contract by delivering written notice thereof to the purchaser and the provider, and by making payment to the purchaser of a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt of such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

436.045. Payment to provider for services, when--trustee to distribute amount deposited on contract to seller.--
Within thirty days after a provider and a witness shall certify in writing to the seller that the provider has provided the final disposition of the dead body, and funeral services, facilities, and merchandise described in the contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, the seller shall pay to the provider a net amount equal to all payments required to be made pursuant to the written agreement between the seller and the provider or all payments made under the contract. Upon delivery to the trustee of the provider's receipt for such payment, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

436.048. Default by seller to pay purchaser or providers.--
If a seller shall fail to make timely payment of an amount due a purchaser or a provider pursuant to the provisions of sections 436.005 to 436.071, the purchaser or provider, as appropriate, 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 purchaser or provider from the trust, as damages for its breach, an amount equal to all deposits made into the trust for the contract.

436.051. Death or legal incapacity of purchaser.--
Upon the death or legal incapacity of a purchaser, all rights and remedies granted to the purchaser pursuant to the provisions of sections 436.005 to 436.071 shall be enforceable by and accrue to the benefit of the purchaser's legal representative or his successor designated in such contract, and all payments otherwise payable to the purchaser shall be paid to that person.

436.053. Certain funds may be in joint account in lieu of trust--requirements --waiver of reporting fee, when--waiver of right to cancel, effect.--
1. Notwithstanding the provisions of sections 436.021 to 436.048, the provider and the purchaser may agree that all funds paid the provider by the purchaser shall be deposited with financial institutions chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the provider and purchaser. If the purchaser has irrevocably waived and renounced his right to cancel the agreement between the provider and the purchaser pursuant to subdivision (5) of this subsection, such agreement may provide that all funds held in the account at the beneficiary's death shall be applied toward the purchase of funeral or burial services or facilities, or funeral merchandise, selected by the purchaser or the responsible party after the beneficiary's death, in lieu of the detailed identification of such items required by subdivision (3) of subsection 1 of section 436.007. The agreement between the provider and purchaser shall provide that:
   (1) The total consideration to be paid by the purchaser under the contract shall be made in one or more payments into the joint account at the time the agreement is executed or, thereafter within five days of receipt, respectively;
   (2) The financial institution shall hold, invest, and reinvest the deposited funds in savings accounts, certificates of deposit or other accounts offered to depositors by the financial institutions, as the agreement shall provide;
   (3) The income generated by the deposited funds shall be used to pay the reasonable expenses of administering the agreement, and the balance of the income shall be distributed or reinvested as provided in the agreement;
(4) At any time before the final disposition, or before funeral services, facilities, and merchandise described in a preneed contract are furnished, the purchaser may cancel the contract without cause by delivering written notice thereof to the provider and the financial institution, and within fifteen days after its receipt of the notice, the financial institution shall distribute the deposited funds to the purchaser;

(5) Notwithstanding the provisions of subdivision (4) of this subsection, if a purchaser is eligible, becomes eligible, or desires to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel such agreement. The waiver and renunciation must be in writing and must be delivered to the provider and the financial institution;

(6) If the death of the beneficiary occurs outside the general area served by the provider, then the provider shall either provide for the furnishing of comparable funeral services and merchandise by a licensed mortuary selected by the purchaser or, at the provider's option, shall pay over to the purchaser in fulfillment of the obligation of the preneed contract, an amount equal to the sums actually paid in cash by such purchaser under such preneed contract together with interest to be provided for in the contract, in which event the financial institution shall distribute the deposited funds to the provider;

(7) Within fifteen days after a provider and a witness certifies in writing to the financial institution that he has furnished the final disposition, or funeral services, facilities, and merchandise described in a contract, or has provided alternative funeral benefits for the beneficiary pursuant to special arrangements made with the purchaser, if the certification has been approved by the purchaser, then the financial institution shall distribute the deposited funds to the provider.

2. There shall be a separate joint account as described in subsection 1 of this section for each preneed contract sold or arranged under this section.

3. If the total face value of the contracts sold by a provider operating solely under the provisions of this section does not exceed thirty-five thousand dollars in any one fiscal year, such a provider shall not be required to pay the annual reporting fee for such year required under subsection 1 of section 436.069.

436.055. Complaints to board--investigation, by whom, procedure.--

1. All complaints received by the state board which allege a registrant's noncompliance with the provisions of sections 436.005 to 436.071 shall be forwarded to the division of professional registration for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved. A copy of each such complaint shall be forwarded to the subject registrant, except that each complaint in which the complainant alleges under oath that a registrant has misappropriated preneed contract payments may be forwarded to the division of professional registration without notice to the subject registrant.

2. The division shall investigate each complaint forwarded from the state board using staff who are not connected with the state board and shall forward the results of such investigation to the subject registrant and to the attorney general for evaluation. The board may also order an investigation to determine compliance with Chapter 436. If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to 436.071, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such
436.061. Violations, penalties.--
1. Each person who shall knowingly and willfully violate any provision of sections 436.005 to 436.071, and any officer, director, partner, agent, or employee of such person involved in such violation is guilty of a class D felony. Each violation of any provision of sections 436.005 to 436.071 constitutes a separate offense and may be prosecuted individually.

2. Any violation of the provisions of sections 436.005 to 436.071 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.005 to 436.071, the court may, in addition to imposing the penalties provided for in sections 436.005 to 436.071, order the revocation or suspension of the registration of a defendant seller.

436.063. Revocation or suspension of seller's registration--procedure.--
Whenever the state board determines that a registered seller or provider has violated or is about to violate any provision of sections 436.005 to 436.071 following a meeting at which the registrant is given a reasonable opportunity to respond to charges of violations or prospective violations, it may request the attorney general to apply for the revocation or suspension of the seller's or provider's registration or the imposition of probation upon terms and conditions deemed appropriate by the state board in accordance with the procedure set forth in sections 621.100 to 621.205, RSMo. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 436.061.

436.065. Option for credit life on life of purchaser--authorized.--
A preneed contract may offer the purchaser the option to acquire and maintain credit life insurance on the life of the purchaser. Such insurance shall provide for the payment of death benefits to the seller in an amount equal to the total of all contract payments unpaid as of the date of such purchaser's death, and shall be used solely to make those unpaid payments.

436.067. Confidentiality of information given to board, division or attorney general--exceptions.--
No information given to the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall, unless ordered by a court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, any person other than the seller, or the provider who is the subject thereof, the authorized employee of the board, the attorney general or the division, without the consent of the person who produced such material. However, under such reasonable conditions and terms as the board, the division or the attorney general shall prescribe, such material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The state board, the division or the attorney general, or his duly authorized assistant, may use such documentary material or copies thereof in the enforcement of the provisions of sections 436.005 to 436.071 by presentation before any court or the administrative hearing commission, but any such material which contains trade secrets shall not be presented except with the approval of the court, or the administrative hearing commission, in which the action is pending after adequate notice to the person furnishing such material. No documentary
material provided the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall be disclosed to any person for use in any criminal proceeding.

436.069. Annual reporting fee, amount.--

1. After July 16, 1985, each seller shall remit an annual reporting fee by October 31 each year in an amount of two dollars for each preneed contract sold in the year since the date the seller filed its last annual report with the state 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 state board from the funds of the seller.

2. After July 16, 1985, each provider shall remit an annual reporting fee of thirty dollars.

3. The reporting fee authorized by subsections 1 and 2 of this section are in addition to the fees authorized by section 436.071.

(more detail on annual report in order to protect the consumer and seller would provide annual report to provider)

436.071. Registration fee.--

Each application for registration under the provisions of section 436.015 or 436.021 shall be accompanied by a preneed registration fee as determined by the board pursuant to the provisions of section 333.111, subsection 2.

Rules and regulations of board

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 for the registration of providers and sellers deemed 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 the preneed industry.

Proposed Amendment to 4 CSR 120-1.040 Definitions

(8) Embalmer Examination— an examination consisting of the following:

(A) National Board Funeral Service Arts Section developed and furnished by the International Conference of Funeral Service Examining Boards, or designee of the board.

(B) In lieu of the National Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted.

(C) National Board Funeral Service Science Section developed and furnished by the International Conference of Funeral Service Examining Boards, inc. or designee of the board; and

(D) Missouri Law Section
Proposed Amendment to 4 CSR 120-2.010 Embalmer’s Registration and Apprenticeship

(8) …………………………..An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another license within twelve (12) months of the date that the board receives the new application. In lieu of the National Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted.

Proposed Amendments to 4 CSR 120-2.070(25) Funeral Establishments

Each Function B establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 4 CSR 120-2.071(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 90 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.

Proposed Amendment to 4 CSR 120-2.070 Funeral Establishments

(31) The building, place or premises which house a funeral establishment may also contain living quarters so long as the following requirements are met:

(A) No portion of the building shall be used for both living quarters and for funeral establishment purposes. Each portion of the living quarters shall be separate and apart from the portion of the building used for funeral establishment purposes.

(B) The funeral establishment portions of the building shall be separated from the living quarters of the building by solid floor to ceiling partitions. It shall be permissible for the separating partition to contain a door that is capable of being fully closed.

(C) “Living Quarters” shall be defined as any portion of the building used for personal living or personal use and includes, but is not limited to, those portions of the building used for personal hygiene or storage of personal property.

OPTION 1: (Grandfathers in all licensees)

(F) This rule shall not apply to any building, place or premises that is licensed by the Board as a funeral establishment on the effective date of this rule.

OPTION 2: (Grandfathers in all licensees- Have to comply if business is sold)

(F) This rule shall not apply to any building, place or premises licensed by the Board as a funeral establishment on the effective date of this rule. However, this rule shall apply to said funeral establishment if the ownership of the establishment changes after the effective date of this rule. A change of ownership does not include the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owners(s).
A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, a change of ownership as referenced by this rule does not include a change in the owners of the stock.

OPTION 3: (Grandfather in all licensees- Do not have to comply if business is sold or transferred).

(F) This rule shall not apply to any building, place or premises licensed by the Board as a funeral establishment on the effective date of this rule. The exemption granted by this subsection shall continue and shall not be effected by any subsequent change of ownership of the funeral establishment.

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Proposed Amendment to 4 CSR 120-2.071(9) Funeral Establishments Containing a Crematory Area

The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and 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 90 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.

The board will take all public suggestions and proposals under review and consideration before or at the next board meeting.

Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business

Don Lakin, Lakin Funeral Home, Webb City, shared a flyer that is put out by the Associated Wholesale Groceries. The flyer introduces a software product called the Personal Funeral Planner. The software package guides you step by step on how to plan your funeral for burial or cremation at a funeral home of your choice.

Chairman McGhee announced the next meeting of board has been scheduled for August 28-29, 2006 at the Country Club Hotel, Lake Ozarks, Missouri.

Adjournment

A motion was made by Joy Gerstein and seconded by Marcia Shadel to adjourn. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. The meeting adjourned at 12:10 p.m. on Tuesday, July 18, 2006.

Executive Director: ______________________________________

Approved by the Board on: _____________________________
Meeting Notice
Missouri State Board of Embalmers and Funeral Directors

July 17, 2006
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

July 18, 2006
Missouri Council of School Administrators Education Center
3550 Amazonas Drive
Jefferson City, Missouri

The Missouri State Board of Embalmers and Funeral Directors will be meeting on July 17, 2006 at the Division of Professional Registration beginning at 1:00 p.m. and on July 18, 2006 at the Missouri Council of School Administrators Education Center beginning at 8:45 a.m. Notification of special needs as addressed by the American with Disabilities Act should be forwarded to the Missouri State Board of Embalmers and Funeral Directors, P.O. Box 423, 3605 Missouri Boulevard, Jefferson City, Missouri 65102 or by calling (573) 751-0813 to ensure available accommodations. The text telephone for the hearing impaired is (800) 735-2966.

Except to the extent disclosure is otherwise required by law, the Missouri State Board of Embalmers and Funeral Directors is authorized to close meetings, records and votes, to the extent they relate to the following: Sections 610.021(1), (3), (5), (7), (13) and (14), RSMo, and Section 620.010.14(7) RSMo.

The Board may go into closed session at any time during the meeting. If the meeting is closed the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

Please see attached tentative agenda for this meeting.

Attachment

cc: David Broeker and Janice Sloca
TENTATIVE OPEN AGENDA
Missouri State Board of Embalmers and Funeral Directors

July 17, 2006
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

July 18, 2006
Missouri Council of School Administrators Education Center
3550 Amazonas Drive
Jefferson City, Missouri

Monday, July 17, 2006

1:00 p.m.
Call to Order

Roll Call

1. Approval of Agenda

Closed Meeting. The Board will move into closed session pursuant to Section 610.021 Subsection (14) and 620.010.14 Subsection (7) RSMo for discussing educational transcripts and/or test scores and/or complaints and/or audits and/or investigative reports and/or other information pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney; Section 610.021 Subsection (1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline; Section 610.021 Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and examination materials; Section 610.021 Subsection (14) and Section 620.010.14 Subsection (5) RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings.

Tuesday, July 18, 2006

8:45 a.m. The Board will reconvene in Closed Session for conducting Embalmer Oral Examinations
9:00 a.m. The Board will move into Open Session
2. Approval of Minutes
   • November 16, 2005 Open Mail Ballot Meeting Minutes
   • November 18, 2005 Open Mail Ballot Meeting Minutes
   • December 5-6, 2005 Open Meeting Minutes
   • December 12, 2005 Open Mail Ballot Meeting Minutes
   • December 14, 2005 Open Mail Ballot Meeting Minutes
   • December 20, 2005 Open Mail Ballot Meeting Minutes
   • December 30, 2005 Open Mail Ballot Meeting Minutes
   • January 4, 2006 Open Meeting Minutes
   • January 17, 2006 Open Mail Ballot Meeting Minutes
   • January 20, 2006 Open Mail Ballot Meeting Minutes
   • January 30, 2006 Open Mail Ballot Meeting Minutes
   • February 1, 2006 Open Mail Ballot Meeting Minutes
   • February 7, 2006 Open Meeting Minutes
   • March 6-7, 2006 Open Meeting Minutes
   • March 9, 2006 Open Mail Ballot Meeting Minutes
   • March 14, 2006 Open Meeting Minutes
   • March 22, 2006 Open Mail Ballot Meeting Minutes
   • March 29, 2006 Open Meeting Minutes
   • April 18, 2006 Open Mail Ballot Meeting Minutes
   • May 1, 2006 Open Mail Ballot Meeting Minutes
   • May 4, 2006 Open Mail Ballot Meeting Minutes
   • May 10, 2006 Open Mail Ballot Meeting Minutes
   • May 19, 2006 Open Mail Ballot Meeting Minutes
   • May 31, 2006 Open Mail Ballot Meeting Minutes
   • June 2, 2006 Open Mail Ballot Meeting Minutes

3. Division Director Introduction

4. Legislative/Rulemaking Process
   • Tom Reichard, Director of Budget and Legislation
   • Connie Clarkston, Budget Analyst
   • David Barrett, Division’s Legal Counsel

5. Executive Director Report


7. Legislation 2007

8. Rules

9. New Release

10. Joshua Slocum, Funeral Consumer Alliance
11. Anaya Bridget (Letter of Concern)

12. Embalmer and Funeral Director Late Renewal Report

13. Upcoming Conference

14. Public Suggestions/Proposals

15. Open Discussion – Dialogue with General Public Attending Open Session
   Continuation and/or Completion of any Unfinished Open Session Business

Adjournment