CHAIRMAN: The Board is out of closed
session and we are now in open. Good morning,
everyone. We want to thank you all for being
here this morning. We know it takes a lot to
come out of your busy time and schedule to
come in and participate, and we appreciate
that, and we would like to welcome everyone
here. At this time I'm going to do a roll
call for all our Board members: Marcia Shadel?
MS. SHADEL: Present.
CHAIRMAN: Jim Reinhard?
MR. REINHARD: Here.
CHAIRMAN: Joy Gerstein?
MS. GERSTEIN: Here.
CHAIRMAN: Martin Vernon?
MR. VERNON: Here.
CHAIRMAN: And we have one Board
member that stepped out, Gary Fraker, our
newest Board Member. While we're waiting to
continue our roll call, what we would like to
do is, if you hadn't had a chance, we would
like that if you would sign up on our sign-up
sheet. So, those that have just come in, if
you haven't had a chance to sign up, we ask
that you do so. And we also ask that those
that wish to make any comments or statements, there is a separate sign-up sheet for you to do so. All right. What I would like to do is introduce our staff. To my left, we have Becky Dunn, our executive director.

MS. DUNN: Good morning.

CHAIRMAN: We have Pam Schnieders. We also have Tabitha Lensini, and also Ms. Kim Wilson. And our division attorney, Ms. Kim Grinston. At this time, I would like to introduce our division director, Mr. David Broka, our new division director.

MR. BROKAR: Thank you, Mr. President -- or Mr. Chairman. It's a pleasure to be here today. This is my reentry into state government, basically, after about fifteen years out. Randy Singer, a while ago, one of my predecessors, said congratulations, but I think I could also hear a little bit in his voice maybe of some sympathy, as well. Randy, as I told him, I've heard some very colorful stories of his tenure, one of which there was a bomb threat one day, apparently, at the office aimed at him, but he wasn't there. He got a call on his cell phone to tell him...
about it, and his first response was, "Gee,
I'm glad I'm not there." So, the rest of the
staff, I think, might have been evacuated at
the time. Hopefully, there's no bomb threats
here today. It's a pleasure to have this
opportunity to be back in state government. I
spent seventeen and a half years previously.
Approximately eight years ago, I was in the
governor's office, and then the rest of the
time either in the Department of Agriculture
or the State Auditor's Office. I've enjoyed
my first two weeks immensely. We'll have to
see how the rest of it goes, but, so far,
it's going pretty smoothly. As you could see
when we first sat down this morning, we're a
part of David Barrett's legal team, so, you
know, any legal questions, we go to our first
counsel first, and then, from there on, the
rest of us will turn it over to Kris. I also
wanted to introduce the rest of the staff that
is here today. And while I am pretty good at
remembering the names so far -- and I've got
to tell you a story. My real introduction
came actually last Friday when, along with
Vanessa Beachum, who is one of our executive
directors that oversees various disciplines
from our office, one in particular being
tattooing, branding, and body piercing, we had
what is known as the Tattoo Rendevous in
Kansas City. This is made up of a lot of
folks from all over the nation who come in to
do their thing. Basically, the vendors are
there from Florida and I think we had Florida,
Texas, perhaps Pennsylvania, North Carolina, a
couple from Missouri. Once you've met East
Coast Al and, let's see, the other one was
Armadillo Red, I think, you know, those names
start to stick in your mind and you get a
real healthy respect for those who are the
tattoo artists. It was a real education for
me. I think the better part of the education
would have been if we could have spent maybe
another hour or so there when the patrons
started to come in. We missed most of that.
I'm sure it got better as time went on. But
that was my first real initiation into the
office and so you all are a much quieter group
than what I experienced last Friday in Kansas
City. The staff members that we have here
with us today, I have already mentioned, of
course, David Barrett, who is one of our legal
counsels on the staff. And we have Tom
Richard, our legislative coordinator. We have
Connie Clarkston, budget analyst, and
Kimberly, who has already been introduced,
another member of our legal staff. We have
Tim Luekenhoff, our chief investigator. We
have Jim McMillan, investigator; Kevin Lauger,
who is an investigator; Don Egan, an
investigator; and also Pete Fleischmann. And
Pete and Don and I were the ones who were in
Kansas City, so if you really want to hear
some of the real stories, you'll have to talk
to those two guys later on. As you know, we
are, through an executive order, going to
become a part of a new department on August
the 28th, and that new department will not
affect us as far as our location. We're still
where we're going to hopefully be for a long
time to come. Our transfer into this new
department is a Type 3 transfer. That means,
basically, we stay as we are with generally
the exception of the budget of our particular
division, as well as the budgets of the other
divisions that are coming into this new
department, are basically under the umbrella,
if you will, of the new department -- the
director of the new department, who will be
Dale Finke, who, right now, is the director of
the Department of Insurance, and we become a
part of that department along with the State
Banking Board of the Division of Finance and
the Division of Credit Unions. So, it's going
to become a fairly large operation, but,
again, our general overall efforts, if you
will, our legal responsibilities and what have
you, do not change. We are the same going in
as we are leaving the present Department of
Economic Development. We have -- you've met
the staff members. Those are the ones who are
really knowledgeable in what they're here to
talk about today, so you'll be learning a lot
more from them than you will from me. I'm
sure I've gone way beyond already the time
that I probably need to go, and it's always
reminded of the minister who is a guest at one
of the local churches out not too far from
here a number of years ago who was quite an
evangelist and had a tendency to just talk on
and on and on. And at the -- getting toward
finally the end of the sermon, as he was
railing against various things that he was
seeing in today's world and was generally
opposed to, he ended with saying, "And I hope
the day will soon come when all the liquor in
this state will be poured into the river."
And then he said, "Now let us turn to Hymn
#94." And there was a large amount of
applause from the congregation when they
opened their hymnals and read the title of the
hymn, "Shall We Gather at the River."

CHAIRMAN: Thank you. At this time, I
also would like to get the approval of the
minutes. If we could get approval of the
minutes?

MS. GERSTEIN: I'll make the motion to
approve the minutes.

CHAIRMAN: Motion made by Joy.

MR. VERNON: Second.

CHAIRMAN: Seconded by Martin. All in
favor. Jim, Marcia, Joy, Martin. Okay. So
moved. I see a lot of new faces and a lot of
familiar faces out there. And, once again, I
just want to make sure everyone had a chance
to sign in. And, also, if you have any
comments that you would like to make, just
sign a separate sign-in sheet for that. And
we ask that if you make comments, if you have
any written comments that you would like to
submit, please do so, as well. And I think
now would be a nice appropriate time, since we
have so many new faces, if we can just go
around the room and have everyone stand up and
introduce yourself and tell us who you are and
who you're with or where you're from. Now's
that? We'll start over there with Mr. Zell.

MR. ZELL: I'm Steven Zell from St.
Louis with -- (Inaudible) -- Cemetery, ACM and
others.

MR. BRIGGS: I'm David Briggs. I am
counsel for the Associated Cemeteries of
Missouri.

MR. WATSON: Steve Watkins from Dexter,
Missouri. I'm the immediate past president of
the Missouri Funeral Directors Association.

MR. OTTO: Don Otto, executive
director of the Missouri Funeral Directors
Association and chief operating officer of the
Missouri Funeral Trust.

MR. STROUD: Larry Strood, Springfield,
Missouri. I'm a secretary/treasurer from the Missouri Funeral Directors Association.

MR. BAKER: I'm Bob Baker from Brookfield, Missouri. I am the current president of the Missouri Funeral Directors Association.

MR. LICKLIDER: I'm Roger Licklider, and I'm with the Board of the MFDA from Rolla, Missouri.

MR. POE: I'm Ronald Poe; I'm with the Grandberry Mortuary in St. Louis, Missouri.

MS. RUSSELL: Darlene Russell with Capital Reserve Life Insurance.

MR. LOESCHE: I'm Dan Loesche; I'm the embalmer at the Washington University School of Medicine in St. Louis.

MR. CHAMBERLAIN: I'm Greg Chamberlain, Lockport, Missouri. Way past president of MFDA.

MR. LAKIN: Don Lakin, Pierce City, Missouri. Just here to raise hell.

MR. SINGER: I'm Randy Singer, and I'm not going to sit by Don.

MS. KADLEC: I'm Cindy Kadlec, and I work for the Joint Committee on Administrative
Rules, which is a joint committee of the General Assembly.

MS. FAIRCILD: My name is Bonnie Fairchild, and I'm working with Barb Buescher, my sister, at Buescher Memorial Home.

MS. MADDEN: I'm Sarah Madden; I'm a legislative liaison with the Attorney General's Office.

MR. FROWNFEITER: I'm John Frownfelter; I'm from Kansas City, director of operations for D.W. Newcomer Sons.

MR. FORNAY: My name is Mark Fornay, I'm with Memorial Park Funeral Home & Cemetery in Columbia.

MR. WANKUM: My name is Andrew Wankum; I handle legislative affairs for the Department of Health and Senior Services.

MR. MARKS: My name is Harvey Marks; I'm the bureau chief at Communicable Disease Control and Prevention with the Department of Health and Senior Services.

MS. VEGA: I'm Alena Vega; I'm one of the staff attorneys with the Department of Health and Senior Services.

MR. McCULLOUGH: Hi. John McCullough
with American -- (Inaudible) -- Services.

CHAIRMAN: All right. Well, thank you. We appreciate you, once again, coming out, taking the time to be with us. Next, we're going to introduce our legislative and rule-making process, Mr. Tom Richard. He's the director of budget and legislation. MR. RICHARD: My name is Tom Richard; I'm director of budget and legislation for the Division of Professional Registration. Ms. Dunn asked me to offer a basic intro to the legislative process. There might be some people here that are not familiar with it. I'm sure there's a number of people here that are infinitely more familiar with it and knowledgeable than I am. I have a couple of little handouts I'll go over. But there is a quote attributed to a Frenchman from years ago while he was watching a class observe the French Assembly. And he said, "Laws are like sausages. One should not see them made." Last year was my first year where I was involved with the legislative process. I came in from the private side of business, and there were times when I was...
amazed that the process does work, having gone
trough it. But what I would like to do is
kind of go through our process that the
division has, and will answer questions as
best I can. If not, there's people here that
can help me with it. Believe it or not, we
start off with this in June. Towards the end
of June, we'll get a sheet which is this first
handout here, from -- well, it actually comes
from the governor's office that's distributed
to the departments down to us, and my office
sends it out to the various boards. It's for
each board to identify any legislative
proposals that they would like to see us try
to enact. These proposals, usually, we get
them the end of June. We hand them out. We
give people two to three weeks to get back
with us on them. Then the division, being
Dave Barrett's legal-counsel group over there,
we will discuss these with the executive
directors, get their justification on what
they're asking. Then after we approve various
bills or proposals, then we forward them on to
the department. The department reviews them
to make sure they don't have any problems with
them, as well, then they go to the governor's office. Usually, again, time frames on that, typically, that's mid part of September, somewhere in there. The governor's office reviews them, goes over them. They have people analyze them. Generally, a couple of months later, we'll get notice back from them on what we can pursue, what the department can pursue, what the division can pursue, what the board can pursue. Sometimes they're all different. But those items that we are told not -- you know, do not pursue, then, obviously, we drop. Occasionally, various associations and private groups will try to go ahead and pursue that legislation on their own. A lot of times we are asked to testify for -- generally, for a bill. We have to request permission from the governor's office to testify in favor of or in support of a bill. About 80 percent of the time, we are advised to just testify on a informational purposes only, so, you know, if there's something that your board wants us to do, if you all are puzzled why we can't do any more than offer basic information on it, it's
because the governor's office has said, you
know, you may testify for informational
purposes only, period. So, anyway, these go
to the governor's office, we get the approval
or whatever on it. Those bills that we can
pursue, we will turn around and get with the
-- usually with the head of the PR Committee
-- the Professional Registration Committee,
and go over our bills with him. He profiles
them for us and kind of takes the ball from
there as far as how they're handled within the
House. After all of this begins, or after we
go through all of that, I looked and looked,
and this is old, but it still goes into
detail. Probably, it's kind of corny, but as
far as going through the process once it hits
the House or Senate, this does do a nice job
of detailing that. Basically, the bills are
filed with the clerk. There's a first
reading, which is basically a formality.
There's a second reading and after the second
reading, the bills are assigned -- can be
assigned to committee, sometimes they aren't
assigned to committee, and they go no farther
than that. If they're assigned to committee,
the committee chair can bring them up or he
can let them die. The committee chair, should
he bring the bill up, it's brought up in front
of the committee. That's the time for the
public to discuss it. If the committee hears
any public arguments for or against, should he
decide to proceed with it, it will go into
executive session at some time, either that
meeting or a subsequent meeting, and vote on
that particular bill. If it is passed out of
committee, then it goes back to the House or
the Senate. It works both ways in either
House or Senate. It goes to the Senate -- or
House then at that time. They will bring it
up on the floor. They will amend it. If
need be, they'll make changes to it if they
would like. They can kick it back to
committee. They can do a lot of different
things with it. After they get it out of
committee and it goes back to the House,
that's when they place it on the perfection
calendar. It's brought up again. There are
debates at that time. If it's passed, they
can go ahead, and then it goes through the
Senate side and begins the process again.
Should the Senate make any changes or the other house make any changes, then it goes to a conference committee and they try to iron out their differences there. And then it would go back to both houses to vote on until they can kind of finally come to an agreement on it. But in a very brief nutshell, this is the process, how it works. There's a lot of pitfalls on it. Things can die at various stages. Bills can be added to and grow so much that nobody would vote for it, and it's an interesting process. As I said, coming from the private side looking at this and going through it, it does leave you scratching your head, going, "I can't believe this works." And sometimes you see things that are really needed that explode for reasons that you have no control over. So, I'll be happy to answer any questions. Becky is knowledgeable with this. She has done it for a number of years. We do have the time lines, though, as far as getting the proposals in. Our time line to the department is to have things in actually within about a week, and then that process would then go for the
department to discuss them and ultimately to
the governor's office. So, anyway, I hope
this is helpful. It's just a one-sheeter.
And as I said, for those that aren't familiar
with the process, it's kind of hokey, but it
does explain it. Thank you.

CHAIRMAN: Thank you, Tom. We want to
make sure that everyone -- I didn't do too
good in school, so I needed a recap to make
sure that we understood that process, that
there's reasons why things don't move as fast
as we want them to, but we still need to make
that effort. Right now, I'm going to ask that
Mr. David Barrett, the division's legal
counsel, come forth and he's got a
presentation for you.

MR. BARRETT: Thank you, Mr. Chairman.
Members of the Board, it's good to see you
all. The best decision, I think, we ever made
as a division was hiring Kim. The worst
decision I ever made was assigning her to this
Board, because I miss you guys. I get to see
you about twice a year now. But it is good,
you know, I've worked closely with Becky with
some of her other boards, and I hear from Kim
and Becky both on this board, and I'll tell
you how I fit into the rule-making process,
the rules you all draft, and how I interact
with you in that rule-making process as things
move on to the Secretary of State's office and
they're eventually promulgated. If you'll
allow me, Mr. chairman, I'll address the
audience for just a second. Love you guys to
death, especially, Don. Not so much you, Don.
The reason I'm going to speak to the board is
because I'm the board's attorney. The
director has assigned me and part of my
responsibility deals with the board. And the
things I'm going to talk about is after the
board gets your input, I don't have anything
to do with the input from the public. I only
deal with things that the board has decided
it's going to do. So, whatever comes from the
general public, you all filter and you make
the decisions of what is best for the state,
for the public, and the licensees in your area
of expertise. Now, I know absolutely nothing
about the funeral industry beyond what an
ordinary person knows, and I have no expertise
in it, and I have to rely on you all for that
expertise. My involvement in this process is to the review of the things that you're going to do. You work with Kim, you work with your chairperson, you work with your executive director, and you come up with a proposed rule. And then when it reaches me, what I'm looking for is essentially a couple of things really. The first thing I look for when I'm looking at a rule is, do you have the statutory authority to promulgate that rule?

For you guys, it's easy. You're an old and venerable board. Obviously, you stand on the shoulders of people that have been here for, you know, more than a century. You have a good base. You also have a very broad statute. You essentially have control over the practice of funeral directing and embalming, and, in many respects, preneed in this state, so it's pretty hard to find a rule that you can't write if it affects your industry. If you think it needs to be done, pretty much, you have the ability to do it under your statute. Where we sometimes run into problems, though, there's two things that I see that boards like yours run into that
occasionally cause me to send something back
to you to maybe think about it again. The
first one is, you can only impact your
industry. I couldn't think of an example from
your board, but I recently had one of the
boards send up proposed regulations that said
if a member of another profession, and they
named it -- I'm not going to -- does this
sort of things, they violate our rules. And I
had to send it back because you can't write
rules for other industries. For instance,
it's possible that you could write a rule or
you would want to write a rule that says a
doctor has to sign the death certificate
within five days. I understand that's
sometimes a problem in the industry. That's
fine, except you can't regulate doctors. And
that's why, if you were to write that rule, it
would get sent back to you. So, you have to
be careful that you stay within your area. An
excellent example of where this board had to
do something and was accused of stepping
outside its bounds where it clearly did not
was recently in the Gegner case. Mr. Gegner
said, well, you're trying to regulate me.
Uh-un. The board wasn't trying to apply any
of its regulations to Mr. Gegner. Mr. Gegner
isn't a licensee. That was the problem.
Without a license, you're not subject to the
board's regulations. You're not subject to
the board's discipline. You are subject to
the board seeking an injunction through our
good friends at the attorney general's office
and take care of it. And if you don't play
by the rules the legislature has set, you
cannot practice funeral directing, and one of
those rules is you have to have a license.
Mr. Gegner comes in and gets a license, then
he'll be subject to your rules. See my fine
point there? They have to be a member of the
profession. They have to have your license.
Or if they're doing things they shouldn't,
then you have your injunctive authority and we
go out and put a stop to it and don't allow
them. That's exactly what happened in Gegner.
The judge said, "If you want to be a funeral
director, go get a license." The second thing
-- that is also the second thing that comes
into this, the drag-in principle, where you
try to drag people into under your regulation
where you say people have to do this, that, or
the other if they're not your licensees. I
haven't seen this board do that, but that's
one of the common things that I see happen
that you just have to remember. When you're
writing a rule, you need to say to yourself,
"Who is this going to impact? Are they our
licensees?" And if the answers to those two
questions are yes, then you're going to be
fine with me. I'm going to sign off on your
rule without any problem at all. The next
couple of things I look at are technical
issues with your rules. You, of course, are
undoubtedly more familiar with your statutes
and rules than I am. There are 10 boards
that are in Mr. Brokár's shop, so I can't
pretend to be as intimately familiar with your
rules and statutes as you are. But I look at
a lot of them, and one of the big things I
look for is what I call fit. Does the rule
that you're proposing where you're proposing
to do it fit into your regulatory scheme. The
best example I have of that is one of the
boards I'm working with right now some time
ago had passed a regulation, obviously before
they had lawyers in-house, and it's in the
continuing-education rule. They passed a rule
that said certain of the courses that qualify
you to test, you know, your prelicense
education had to be done face-to-face, that
you couldn't do distance learning, you
couldn't do an e-mail course, you couldn't
just watch something on video. You actually
had to meet with an instructor and your other
students so that you had that face-to-face
interaction to help the learning process. The
only problem with that is nobody ever saw that
little subpart of the rule. Why? Because it
was buried in the wrong place. It was in
continuing education. And nobody doing their
basic education ever thought to look at the
continuing-education rule, so now we're going
to break that rule out separately and put it
more where it belongs, and that's, like I
said, what I call fit. Is it in the right
place? The third thing that we look at, and
Connie is my savior on this, is we look at
the rules together when they first come in,
and we say does it just make sense. You guys
speak a language that I don't speak. That's
okay. I speak lawyer and most of you don't speak that. That's why you have me and Kim. But we all, in our profession, have terms of arts, and things that you all talk about, and I've sat in your board meetings and had this happen, you all will get to talking about some technical aspect of the job and I won't have a clue what you're talking about just because I don't know what the words mean. I have not invested, obviously, the time, and I don't have the experience that you all do. So, sometimes when you say something, you say it in a way that makes sense to everybody in the industry. The only problem is the people that read those regulations the most are the people from my industry. And although eventually we all have to submit to your industry, we need to understand it as we go along. And if I can't understand what you mean by something, you're likely to get a note back from me or Becky or Kim, currently, or whoever your chairman is will have a visit with me and try to explain to me what does that mean. And once I understand it and Connie understands it, we think we've gone a long way down that
road. Connie usually gets it quicker than me, but I do my best to keep up with her. Do any of you have any questions about it? We’ve worked on regulations before. You guys have had my input on regulations before. You have Kim’s input now. Is there any question, not as to a specific regulation, but generally, that I could answer for you all? I thank you very much for your time. I think you guys do a great job. I enjoy working with you, and I look forward to seeing how you all work through some of the things that you’re getting today. Thanks kindly.

CHAIRMAN: Thank you very much, David. I just have a question: Can everyone hear okay when he’s speaking? I just want to make sure everyone -- okay. Next, we’d like to call Ms. Connie Clarkston. She’s the budget analyst, and she’s got some remarks and statements for us, as well.

MS. CLARKSTON: Good morning. I kind of want to pick up where David left off with the rule-making process and describe the process to you, which is quite lengthy. If you propose a rule or an amendment that
doesn't have any comments, we can usually get through the process anywhere between five to seven months. If you have comments, we take that out from seven to nine months. So, you do a lot of work internally before it gets to me, and then I have almost another year before we can actually get things moving.

CHAIRMAN: How long is that, again?

MS. CLARKSTON: Yeah. Another year.

CHAIRMAN: Okay.

MS. CLARKSTON: It takes quite a while. I do rules for the entire division, so once we start on it, it can be five to seven months. But you also have to remember that depending on priorities of the division, if there is another one that's urgent, things get shuffled around. I'd like to take you through the flowsheet a little bit because I think that will give you an idea of how lengthy this is. It's not something that happens overnight. Once David and I look at the rules and we feel comfortable with that, then we start moving it through the internal-review process, which includes Tom, David, David Barrett, and then it goes on to the
department. And what the department does is
they look at it for their legal review, and
then they get the director's approval to file
that. We then -- it comes back to us and
then there's a whole packet that gets put
together, and that can take some time there
just because there's so many phases to that.
Once we have everything together, we proceed
with filing with the Joint committee on
Administrative Rules and the Secretary of
State's office. That has about a 30-day
window in there. We have filing dates for the
1st and the 15th of the month. That means
that the rules will appear in the Missouri
register the 1st or the 15th. From that
point, there's a 30-day comment period.
That's where you start -- if you put a rule
out there that's controversial, that's where
you're going to start hearing from a lot of
your public. The board has an obligation then
to review those comments and to respond to
that. Once that comment period has ended,
then we file a document called the final order
of rule making with the Joint Committee on
Administrative Rules summarizing what the
comments were and what your responses were, and if you made any changes to the rule. So, if you've got something out there that you just didn't think about, you still have the opportunity to change it. Once it's filed with the Joint Committee on Administrative Rules, they have 30 days. During that 30 days, they can hold a hearing to talk about your rules, or they can do nothing at all. If they do nothing at all, we just smooth on through the process and we go to the Secretary of State's office, and then it proceeds on down through the effective date. If the Joint Committee on Administrative Rules would hold a hearing, there's specific guidelines in statute that they can take action upon your rules. Cindy Kadlec, with the Joint Committee on Administrative Rules, is with us today, and I would like to defer to her -- sorry, Cindy, to put you on the spot --

MS. KADLEC: That's okay.

MS. CLARKSTON: But I think she knows that part of that better than I do. She works with the Joint Committee on a daily basis with other agencies, so she can explain...
to you, should they hold a hearing, what
happens through that process, and why they can
either take action upon a rule or do nothing.

MS. KADLEC: Good morning. I'm Cindy
Kadlec; I'm the general counsel to the Joint
Committee on Administrative Rules. The Joint
Committee on Administrative Rules is a
statutory committee of the General Assembly.
It consists of five representatives and five
senators, and their responsibility is to
review rules promulgated by virtually every
department. There's one very minor exception.
We don't review rules of the Labor and
Industrial Relations Commission, but every
other department in state government, if there
is a rule being proposed by that department,
the Joint Committee on Administrative Rules
takes a look at that rule. As Conrie already
said, we get the rule when the initial
proposed rule is filed, and then you then go
through the comment period. Then where we
scrutinize it more closely is when we get the
comments back through the order of rule
making. We take a look at the department's
summary of the comments, and many times there
could be -- or not many times, but
ocasionally there can be an issue from the
regulated community where they're urging the
committee to have a hearing. The committee
could want to have a hearing on their own.
If we get to the point of having a hearing,
the committee's review is somewhat limited.
The committee can basically review rules and
disapprove them, and I'll explain that in a
moment, for five different reasons. They're
all contained in state statute. One is an
absence of statutory authority, which, as was
already pointed out, your board has a pretty
broad authority to promulgate rules.
Secondly, if those rules conflict with some
other provision of state law, the committee
can disapprove those rules. Thirdly, if the
rule is so arbitrary and capricious that it is
unreasonably burdensome on the persons
affected. And then the final two reasons that
the committee can use to disapprove rules are
fiscal reasons. The board is required to
prepare a fiscal note for any rule that's
going to have an impact on a public cost or a
private cost. If the board has not prepared a
fiscal note that properly reflects either the public cost or the private cost, the committee could disapprove the rules on that basis. If the committee does hold a hearing and disapproves the rules, the rules are held in abeyance for 30 legislative days so that the General Assembly has an opportunity to ratify the action of the Joint Committee on Administrative Rules through the passage of a concurrent resolution. It's acted on just like a bill, and what would ultimately happen is it gets filed with the General Assembly, it goes through both houses. If it's passed, it gets submitted to the governor. If the governor signs it, the rule is completely dead. If either that concurrent resolution is not passed by the House and the Senate, or if the governor vetoes it and the veto is not overridden, then the rule keeps on going. More often than not, people in positions such as yourself will sometimes make the decision that they would rather pull the rule at that point, and rather than having another six- to nine-month delay for some finality with the rule, folks such as yourselves decide, well,
We're going to withdraw the rule. We'll go back to the drawing board, and we'll start this process over and see if we can work through it a little bit better. So, those are some of the possible outcomes. Does that answer what you wanted me to?

Ms. Clarkston: Yes, that's it.

Ms. Kadlec: Okay.

Ms. Clarkston: Thank you. Once we accomplish that hurdle, then we move on to the Secretary of State's office and then we're pretty much home free when we make it to that part. We have to sit there 30 days again so that they can prepare to put it in the Missouri register. Once it appears in the Missouri register, then it appears in the Code of State Regulations. After 30 days sitting in the Code of State Regulations, the rule becomes effective. That's when you'll see a lot of boards prepare their law books to send out to the licensees in their populations that they serve. Kim mentioned fiscal notes and I want to touch just a little bit on that because that can be just a horrendous process, trying to play John Q. Public and say what's
it going to cost me? What's it going to cost
the board? We even take it down to the
postage, to the paper, to the license paper,
what that costs. Some of the obvious ones are
your application fees, the notary fees, if you
have to submit a photo. We encompass all of
that into the fiscal note to come up with an
actual cost so that the public understands
what it's going to cost to become a licensee
with your board. We review those annually
because we're required to by law and if we're
within 10 percent, we need to file again.
Another cost statement comes in. In 2004, the
Small Business Fairness Regulatory Board was
created by statute. What that was to protect
was to actually make agencies responsible to
put costs out what it was going to cost small
businesses. And small business is defined as
a business that employs less than 50 people.
We, as a division, have looked at that and
said, you know, every licensee that we license
has an effect on small business in some
fashion or could have. We would have an
incredible team doing rules to try to prepare
statements for every facet of direct cost.
So, we've looked at it and said if we license an entity, an establishment, a business, we will file small-business statements for those rules that affect just those people. What that statement does is provide a statement of direct cost, so it could be administrative costs for copy machines, postage, what a person would pay for clerical, how much time does it cost them to put a proposal together. So, when we look at anything with funeral establishments, that takes us to the next step with them. We would have a small-business regulatory statement that we would have to prepare. We would work very closely with Becky who would be in consultation with you as board members for costs that we just were not aware of. So, as you can see, as we go through this, we notice the public up a lot with the opportunity to comment on your rules, what it's going to cost someone, and as a small business, what direct costs you would have for that. When the rule becomes effective, you'll see a lot of changes on the Web sites where those rules will be posted so that your public can see that, as well. But
that summarizes the rule-making process, and I
would be happy to entertain any questions that
you would have.

CHAIRMAN: Questions? Any questions?
Thank you very much, Connie. At this time,
our agenda calls for the executive-director's
report.

MS. DUNN: Within your agenda, we have
provided a financial statement. I think it's
self-explanatory for everyone. If anyone has
any questions, I'll be happy to respond to
you. It's agenda-item #5.

CHAIRMAN: Okay. Next, we'll move on
to item #6, which is legislation for 2006.
Item #6 is just an overview of what the
legislation is as that has been signed into
legislation for the year of 2006, so we want
to provide that to you. One of the things
that most notably is standing out is Governor
Blunt signed the law shielding mourners and
any funeral protest. I think we have the MFDA
in the room here, and they were very helpful
in helping get some of that passage. Don,
would you like to make any comments on that?

MR. OTTO: Yeah. There was actually
two separate bills that were passed, a House version and a Senate version, and the governor signed both of them. The one he just recently signed up in St. Joe tightens up the language a little bit and probably makes it easier to defend against what will probably at some point be a court challenge. But it is based upon statutes that have withstood court challenges in other states and both on the federal level. Proud to say Missouri is one of the first states to get on the bandwagon and adopt this legislation. And now I think it is at least 24 states either have it or are in the process of passing it, and federal legislation that protects federal cemeteries also recently was passed. So, it's something that was unfortunate that it was needed, but the day after the governor signed the bill in St. Joe, there was a funeral -- or two days after -- where the protesters showed up. They followed the law and stayed away the required distance. And because of that, it didn't affect the family. The family never saw them, and so it worked. So, we want to thank everyone here who supported that and the board
and everyone else because, at least so far, it's working.

CHAIRMAN: Okay. Thank you, Don. Item #7 calls for legislation for 2007, and, at this time, we have no pending legislation. We'll be discussing that a little bit later. Item #8 talks about the rules and what you see in agenda-item #8 are regulations in this section were approved by the board at the March 6th and 7th of 2006 meeting. These regulations have now been reviewed and approved by the Division of Professional Registration, and will be submitted to the department for processing. So, the things that you see in the brackets have been removed and all of the red bold are the new wording. Agenda-item #9, these --

MR. LAKIN: I'd like to make a comment on this, on item #8.

CHAIRMAN: Sure.

MR. LAKIN: When we met in March, you said that that was in regard to the changing the embalmer's log -- their registration log. You said that was in regard to inspectors having the ability to go in and see that a
body had been in cold storage or been embalmed, this was going to help them on that. I'd like to remind the board that that's a Health Department rule. That's not a rule -- it's referred to in 333, but that is a Health Department statute. The Health Department is the one who should be checking on whether the body is in the cooler or whether it isn't, because I think we're going to find that we're inspecting things that the Health Department should be inspecting. It's no different than the funeral homes that's putting in food service in their funeral homes. And I just want to bring that comment for the board to think about. I know this has already been changed, and it's probably good, but the reason for changing it was said that it was going to be a lot easier on the inspectors. Well, that's a Health Department rule, that isn't a 122 rule. It's referred to as in 333. It says refer to Section 122 point something in regard to the dead human bodies. Just something for the board to take note and think of.

MS. DUNN: Don, are you talking about
that we had the dead human body logged when it
arrived at the funeral home? Is that what
you're referring to?

MR. LAKIN: No.

MS. DUNN: No.

MR. LAKIN: You said it was -- the
statement for changing it was that it would be
a lot easier for the inspectors to find
violations in regard to a body that had been
dead over 24 hours and not embalmed or in a
cooler. This is not written in there. I'm
saying what was said their reason for. But
that is a Health Department rule, that is not
a 333 rule. 333 only refers to it, to the
Health Department rule.

CHAIRMAN: Actually, 333.061, number
4, says "Each funeral establishment shall have
available in the preparation or embalming room
a register book or log," which is one of the
parts that we want to clarify, because we had
embalming log, and it doesn't say in the
statute "embalming log," so we wanted to make
sure we referred to it as a register book or
log, "which shall be available at all times in
full view of the board's inspector and name
each body embalmed, place, if other than at
the establishment, the date and time that the
embalming took place, and the name and
signature of the embalmer and the embalmer's
license number shall be noted in the book."
And I believe, Don, that the only change
really was C, which is the date and time that
the dead human body arrived at the funeral
establishment.

MR. LAKIN: Right.

CHAIRMAN: And this was to help insure
that the proper procedures had been followed
as far as the 24-hour rule with embalming or
refrigeration for the public safety and
whatnot.

MR. LAKIN: Yeah. But that's under
the Health Department. That's the Health
Department's problem, not 333's problem, not
the State Board of Embalmers --

CHAIRMAN: Okay. Well, we have some
representatives from the Health Department
here today, and I'm sure we'll be tweaking
your ear before the end of the day. Any
other comments? If not, we'll move on to the
news release, which is item #9 on the agenda.
At this time, I'd like to refer this to our
division attorney, Ms. Kim Grinston, and this
is referring to some of the news releases that
were given out with the Larry Gegner case. I
think David Barrett kind of touched a little
bit on it, on how that situation was, but I'm
going to let Kim kind of give us an update on
this.

MS. GRINSTON: Well, as you all may
know, the Larry Gegner case has been
concluded. The board asked me to talk about
some of the press that was released on the
Larry Gegner case. Some of you may or may
not know that the Institute of Justice, which
was involved with the Gegner 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, and
we explained certain things to everyone who
contacted us through the media. Number one,
that the board understands that a person has a
right to sell certain funeral merchandise.
The board never intended to prohibit or to
restrict anyone from doing anything that they
were legally authorized to do; however, the
board did intend to make sure than anyone engaged in the practice of funeral directing had a funeral-director's license as required by Chapter 333. Some of the press that went out and that you may have seen may not have fairly reflected that, but the board wanted to make clear that its intention and its goal, again, was to make sure that everyone engaged in the practice of funeral directing is appropriately licensed. The board was able to get exactly what it asked for. We filed a lawsuit asking for a permanent injunction to prohibit Mr. Gegner from performing any unlicensed activity. Mr. Gegner agreed to the injunction and the injunction was, in fact, issued. And the board is pleased that Mr. Gegner is now required to comply with Missouri law and will do so, and not do any activity that requires a license without getting a license from this board.

CHAIRMAN: To touch upon that just briefly, you know, anytime you put out the facts to the news media, if any of you have had a chance to work with the news media, sometimes the spin that comes out of that can...
be twisted to reflect the big win or Missouri man wins case. Actually, it was an injunction that Ms. Grinston just explained to you, that he was prevented from doing the things that he needed a license for. And whenever you attempt to collect any kind of fees or donations for providing a service, you are engaged in the profession and business of funeral directing, and that's what we wanted to clarify in this case, and I think we done such. And, unfortunately, I don't own a newspaper, and if any of you do, you would be more than glad to send a comment to the editorial page, and that's up to you to do so. So, that's --

MS. GRINSTON: Also, the board has received some inquiries about some of the factual allegations that were in the underlying claim, and the factual information that was received by the board. Please understand that under state law, information pertaining to a specific licensee, certain applicants for licensure, and certain information in the board's files is considered a closed record and/or closed information.
So, there may be some information that may have been requested in the past that the board has not been able to give out; however, all of the information from the lawsuit is a public record. The injunction is a public record. And if there are any questions about any of the public information, please feel free to contact the board.

CHAIRMAN: Okay. Thank you, Kim.

Item #10. This was some letters that were sent in by Josh Slocum from the Funeral Consumer Alliance. In here, he asks some questions that just kind of touch upon what Don was talking about, concerns about health risks from not properly taking care of handling a body. And this is where we would like to ask and see if the Department of Health would have any comments or any kind of statements and help in clarifying what is expected from the public as far as handling a body that is over 24 hours after the time of death opposed to what the funeral regulations require our licensees to do. And if you have any concerns or any comments in reference to certain diseases that may be considered
contagious, that would become a public
question of the health -- I know that sometimes
they bring up situations such as
Creutzfeldt-Jakob disease, which is an off
form of the Mad Cow disease, which is highly
contagious. And I know that sometimes when we
get inquiries to the board as far as with
people wanting to do the do-it-yourself, a lot
of these questions kind of coincide with the
Department of Health because these are issues
that, you know, we can only regulate our
licensees, but I believe that we do have a
concern and the public does have a concern for
the safety and health of the general public if
someone is not handling these cases adequately
to protect their neighbors or the people that
are attending these do-it-yourself services or
any services. So, I know I had a lot to put
on you there, and I wanted to see if you all
would have any comments or any statements in
regard to this letter from Mr. Josh Slocum?

MR. WANKUM: Good morning. My name is
Andrew Wankum; I'm the chief of the Office of
Governmental Policy and Legislation with the
Department of Health and Senior Services. We
asked the communicable-disease folks within our department to go over the statutes and just kind of look and see what needs to be changed or what sort of diseases need to be updated. In going over it, we identified that we need to keep on the list, for example, typhus, bubonic plague, anthrax, smallpox, tuberculosis, as there is evidence that these can be transmitted through dead bodies. Most of the time, most diseases, the longer the person has been deceased, the less likely are they to transmit a communicable disease, however, certain viruses, like HIV, can last up to six days in a human body and still be -- you can still catch it from it. We also looked at there are several diseases listed by statute that there really isn't any evidence for postmortem transmission. That includes references to ship fever, yellow fever, scarlet fever, glanders -- how do you pronounce that one?

MR. MARKS: Syphilis, measles, puerperal fever, diphtheria.

MR. WANKUM: And puerperal fever, it's -- yeah. Sorry. Sorry for mangling the
scientific names. And we also thought we
could probably do with renaming the reference
from Asiatic cholera or cholerine to just
cholera in general, which can be transmitted
postmortem, as well as certain parts of the
rules refer to leprosy as Hansen's disease,
and so we probably should just change it so
it's the same thing throughout. And as for
diseases that should probably be added, we
think that viral hemorrhagic fever should be
added, you know, especially now. As you know,
there are cases or we are worried about
biological weapons. Hemorrhagic fevers are
very contagious, they're very deadly. We know
that our Center of Emergency Response and
Terrorism, they are constantly mentioned
either -- of the Soviet Union and its
biological-weapons program tried to combine
smallpox with a disease called Marburg which
one of the symptoms is extreme bleeding and
it's very contagious and very deadly. In
fact, a book was published where a Russian
nuclear scientist or a Russian
biological-warfare scientist died, and then
actually -- or caught the disease and then as
he was dying, continued his research on himself to -- and that was a rather large -- and the Soviets were engaged in a rather large program, and, obviously, the federal government has some concerns about it, you know, where those scientists are. Obviously, the federal government has been trying to work with the Russians to have these biological researchers, you know, turn their attentions to, you know, disease research as opposed to weapons, and I'm pretty sure that's what's happening over there. A lot of them have moved over here to do medical research. And then the last thing that you had mentioned earlier was exposure to blood, cerebrospinal fluid, or to the brain or nervous systems. Obviously, these -- if a person is going to be exposed to those types of fluids or to the brain or nervous systems, they probably should be embalmed or cremated just to avoid exposure to HIV, hepatitis B and C, which, you know, as you know, are rather contagious and we do have a problem with those, some of those diseases in the state.

MR. MARKS: And that would include
CJD, as well, with those fluids.

CHAIRMAN: Question. What is your jurisdiction related to the individual handling the burials of their own, because, you know, we mentioned -- you just mentioned that they probably should be embalmed. But who would be responsible for insuring that the public attending a nonregulated service or a do-it-your-own service would be protected from such diseases that you mentioned if they should be embalmed, but they are not embalmed? I mean, this is one of the dilemmas we have and a concern we have to make sure that the public safety is not at risk. And this is something that has come up where individuals have passed away and there has been no time requirements for how long the do-it-yourself folks handling those services would have that body, you know, and no conditions of where they would have to be, no temperature regulations, no embalming, if need be, if one of these cases would come up. And I think this is one of the main concerns that we have in working hand in hand and trying to get some feedback from your department to make sure
that the public is not at risk. So, I guess
my question, once again, is: What jurisdiction
do you all have relating to those individuals
wanting to bury their own, or to insuring that
they're doing it properly? What kind of
follow-up or anything of that nature?

MR. MARKS: I mean, I would have to
defer and get back. I mean, with the
statutes, I mean, there's recommendations on
when they should, which he had covered, and
some proposed amendments to those statutes
that were adopted in 1929. But, currently,
I'm not aware of, you know, any, you know,
group that's --

MR. WANKUM: And a lot of our -- and
I'm not sure about the handling of corpses is
included in it. I'd have to double-check.
But a lot of the local health departments are
able to do their own enforcement actions based
either on a contract they received from DHSS
or, of course, every county usually can
promulgate a health ordinance. They either
have a local elected board of trustees for the
health -- basically, a local board of health
that can pass health statutes, be it, like, up
in St. Charles, they passed a law on smoking
to various other areas that affect the health.

CHAIRMAN: Once -- you know, and
here's the thing, and I just want everyone
here to kind of run through scenarios that
I've kind of played out just to see in case
something should happen, and I'm just going to
give a hypothetical scenario, and, by no
means, I'm trying to put you on the spot with.
But I'm just wanting to voice our concerns
about what could happen if there's not any
kind of insurance or jurisdiction of someone
enforcing and making sure that the public is
protected. Suppose we do get a
Creutzfeldt-Jakob case, and the person decides
to handle their own service, which they have
every right to do. And they have grandpa, you
know, out for four days before they decide to
have the neighbors come and view. They decide
ey they want to have a viewing at their house,
and they have him in the house. And, you
know, the body may have purged at that time
and there's been no adequate sanitation of the
body. But, yet, they invite the neighborhood
to come in and pay their final respects, and,
perhaps, you know, the little boy next door
that was very close with the grandfather
before he passed away would go up and lean
over into the casket and kiss him, you know,
or give him, you know, the last affection of a
good-bye. And perhaps at that time, that is
transmitted and it becomes an outbreak in that
community. Who is responsible for insuring
that that little boy's safety and health is
not at risk, because I, as the parent of that
little boy, would be devastated and also
appalled that if this is something that can be
done just by the general public that does not
have the adequate knowledge for that
protection, you know, who in our state would
be able to have jurisdiction to make sure that
that exposure does not go to the general
public, which is our main concern as a board
is to protect the general public? Not take
away the right from anybody to have that right
to do so, but we are under -- in our laws and
regulations, we are under those guidelines to
make sure that the appropriate steps are
taken, and these are just the concerns we have
when we ask some of the folks from some of
the Institute of Justice and whatnot. Their answer was just put them on dry ice. And, you know, I don't think that would adequately protect from the exposure of what the scenario is I just mentioned. And these are the concerns, I think, we all share as a board for the protection of our general public. And these are the questions and scenarios that we submit to you, as the Department of Health, to help -- go hand in hand to make sure that there is some type of jurisdiction or some type of enforcement to make sure that these things do not occur if someone that does not have the knowledge to do this should happen to handle it themselves, which they have every right to. Does that sound fair -- you know, as a valid concern?

MR. WANKUM: Yeah. I mean, there's a lot of personal-rights issues that, you know, I know I've had to deal with in the legislature, and the person that works with the legislature, be it, you know, vaccine issues to home births, which is sort of the, you know, another problem in the state or I should say an issue that, while we don't have
direct authority over, you know, we do have potential concerns about newborn health just as we do with the health of the people who are attending a funeral. You know, there is a great deal of I'd say push back from the people who believe very strongly in personal-rights issues on a lot of different topics. You know, as the department, you know, much of the diseases that we are concerned about are not really common.

Obviously, HIV is still out there, and it has infected a lot of people, and it is a very expensive, painful disease that even though it's become more of a chronic condition, it's still -- people are living with the disease much longer, it's still a fatal disease. But others, such as typhus, smallpox, bubonic plague, we don't really see that in this state. I mean, obviously, smallpox, the last case in the world naturally occurring was in the late 1970s. So, I mean, a lot of these diseases aren't that common, you know. Viral hemorrhagic fevers are most common in Africa, you know. The Ebola virus, that sort of thing, we don't really see that here in
Missouri. So, when the department looks at these things, we have to balance -- we have to try and seek a balance of where are resources are going to go for enforcement issues on the public health. For example, hepatitis, we'll see a lot more of, or various school outbreaks and with dealing with children. That's where most of our communicable-disease attention is focused. So, in answer to your question on enforcement issues, it would probably be up to the, you know, the local health departments to insure the safety because the state cannot be -- we don't have the resources to be everywhere, while we work very closely with the counties, our county partners and our partners in the various cities because several cities have their own health department. Obviously, St. Louis City being not in the county, has -- we work very closely with them, as well. But in most of the areas that you're talking, I'm assuming are going to be more of our rural counties, and chances are that will be just a county health department, or, in some cases, a multicounty health department. I think we have a couple of those
in the state.

CHAIRMAN: Do any board members have any questions?

MS. GERSTEIN: I have a clarification question. So, what you're saying to us, if we receive notice or a complaint about a situation where someone has buried their own and left them laying on the kitchen table for five days, are you saying that what we have to do is refer them back to their county health department? There's no state laws about this?

MR. WANKUM: That's -- well, if it's referred to us, we'll be working with the county. I mean, when we -- we're not -- we don't do very much in the way of enforcement. Our main concern, if there was the possibility of a person being exposed to a disease, would be to investigate and then to make sure and follow up and do surveillance to make sure the disease is not spread. I'm not sure how we would, you know, take any punitive action, other than perhaps the injured party seeking, you know, civil redress of -- you know, because, obviously, if someone acts irresponsibly and we do have recommendations
in state law of what you're supposed to do. In that case, they could do -- the civil courts are always open for redress of damages. As a public-health agency, our concern is to make sure that if anything does happen, that we can respond to make sure that, you know, it's contained and that anyone exposed receives, you know, the right treatment, especially if it's a contagious disease -- if they can spread it themselves. Or if it's, you know, a drug that it can be treated with. You know, for example, anthrax exposure, you know, make sure they get the right amount of Cipro. You know, they get treated with the antibiotics to make sure that the person survives. And that's -- our general concern is always with, you know, limiting the damage, but we're not really a punitive agency. I mean, we do license entities, but we're not --

MS. GERSTEIN: Oh. I wasn't thinking about enforcement. I was just thinking about --

MR. WANKUM: We work with the counties closely. We're in constant contact with our counties and have our Division of Community
and Public Health has a center for local public health, and we work very closely with our county organizations. Obviously, you know, we're separate entities. They are responsible to their county government, we're responsible to the state government, but we have a very strong partnership with our county organizations. And then they really have the front lines when it comes to this sort of happening.

CHAIRMAN: For the benefit of all, and I know that it's difficult, but these microphones aren't obviously hooked up to our overhead system here. So, we ask that if anyone makes any comments, if you could please speak up so everyone in the room can hear. And then do we have any other questions from any of our board members or any of our staff or any of our public today that are here in attendance that would like to address any issues or concerns?

MS. DUNN: Well, I have a question.

MR. WANKUM: Sure.

MS. DUNN: How do you oversee the filing of death certificates for persons
acting as such? Do you know if they're filing
a death certificate, or do you have any way of
overseeing that process?

MR. WANKUM: I'd really have to check
it on how that's done. I'm sorry. I'll have
to check and see how the Bureau of Vital
Records receives it. I mean, we receive
records from, you know, directly from people,
and we also receive vital records from the
counties, as well. So, we're just -- I'd have
to check back and see how that's done. Most
of my experience with the vital records is
dealing more with people needing birth
certificates for driver's licenses rather than
death certificates for benefits, so --

MR. REINHARD: But don't you think as
a health department, I mean, you've got
disaster programs in place in counties. I
mean, we have one in our county. I mean,
shouldn't you be looking into something to not
enforce, but at least be able to address a
problem like a communicable disease that might
be contagious?

MR. MARKS: Well, according to the
World Health Organization, the Federal Trade
Commission, and other references that most
agents don't survive very long in the body
after death, with some exceptions that Mr.
Wankum went over. You know, if there was, you
know, transmissions, they're going to be on
the department to investigate and get to that.
But, certainly, the concerns that were
expressed by this board, we'll take them under
advise and back to the department. But,
personally, I'm unaware of any group that are
regulating, you know, families that when, you
know, someone, you know, dies, and if, you
know, they opt to have a home, you know,
burial, that that's being regulated. But
certainly take that back to the department
and, you know, I cannot comment that there
isn't, but, to my knowledge, there is not, but
certainly control of communicable disease
falls within the purview of the department.

CHAIRMAN: Don?

MR. LAKIE: I would highly recommend
and suggest that the Department of Health
change 20-24.010, and to clean that up just a
little bit, that you do have some teeth.
There is no violation, there is nothing that
you could do about it. It says, "and shall be buried within 24 hours." "Shall be," but it don't have any kind of penalty if you don't or question. And it's an old-time -- this is an old-time law, you know. If they were -- what does it say -- all in -- (Inaudible) -- isolated. Such as -- yeah, at the time of death, such as maybe smallpox used to be isolated. This is very old, and I really think you need to clean it up. And as far as your comment about the diseases, I think that's fine until you get into the situation where you've got flies and maggots and so forth after two or three days of laying there on your mom, and I think that's a Health Department issue. I really think that the Health Department needs to look into this because it's going to -- you know, it's going to happen more and more. I have a feeling. And somebody needs to regulate it, and I'm not sure that it's just -- that it's under Chapter 313. I think it's your problem. I think it's the Health Department to regulate, and I'm just saying it needs to be cleaned up.

CHAIRMAN: Don Otto?
MR. OTTO: I agree that most of the Health Department regulations are "shall," they're not suggestions. "The body shall be hermetically sealed" if X, Y, and Z happens. "The body shall be buried within a certain period of time." Violation of those Health Department regulations are a Class D felony punishable by up to a $5,000 fine and five years in prison. And if we have regulations that say "shall," somebody ought to be making sure that they -- that it's being 'shall.'

And in my personal opinion, I would venture to say that in chapter 1 in the vital records, it's -- half of the rules are misdemeanors, half of them are felonies. I would venture to say that any private funeral done, those rules are being violated. I just -- I'd be willing to bet money on it. And what's even worse is, you don't know if they're being violated. When a regulated person does it, you have a license to take away. It's very similar to what we had in the trucking industry a long time ago with the people who were regulated got in trouble when they violated the rules. The people who were unregulated, nobody
regulated them, so they never got in trouble, and it really destroyed the trucking industry. That's why we have a lot of small towns that don't have trucking service anymore because the whole thing collapsed because of that very problem -- the unregulated people. So, I think there is a serious problem. The Health Department rules say you must do certain things, and if you don't, it's a felony. And if nobody is enforcing those, it's a potential problem.

CHAIRMAN: One of my concerns, once again, and not to try to, you know, beat up on it. But all it would take is that one little boy to be your little boy, your little boy, or someone who is here family member that was affected by this hypothetical situation, which could happen, and we, as a community, as a board, and as the public, people here today, know that this is a problem that can happen. And the Health Department, as Don says, does know. That's why it's in our books. But, you know, it's a situation that needs to be addressed, and we hope that when you do take this back under advisement, that you can, you
know, help us to help the people in the public
and safety of the people in the state of
Missouri. I have one more question for you.

MR. CHAMBEZLAIN: When you have a
person with a contagious or infectious disease
of any one of those things, as a funeral
director, going in to make a removal, how am I
know about it? Are the hospitals or the
institutions above and beyond the privacy of
the health of that person? Should they not
notify the person making the removal that
there is the possibility or probability of a
contagious, infectious disease so that he
might protect himself?

MR. MARKS: I would have to check on
that and get back with you.

MR. OTTO: And the answer is yes, by
the way.

MR. MARKS: I think so, but I would
have to check. I think there was --

MR. CHAMBERLAIN: (Inaudible).

MR. OTTO: Yeah. The answer is yes.

There is an affirmative obligation and there's
also a specific exception for funeral
directors/embalmers under the HIPAA Act. So,
yes, there is -- doctors, nurses, hospitals, and nursing homes.

MR. CHAMBERLAIN: And how do you institute regulating those people who do not conform? Many hospitals don't want anybody to know --

MR. OTTO: Correct.

MR. CHAMBERLAIN: -- there is --

MR. WANKUM: And we regulate hospitals or physicians. That would be the Board of Healing Arts, but DHSS is the regulator for a hospital and nursing home. So, if --

MR. CHAMBERLAIN: And according them, when I find out later --

MR. WANKUM: If you complain to us, the Division of Regulation and Licensure, is the entity within the Department of Health and Senior Services that regulates both hospitals and nursing homes, as well as ambulatory surgical centers in the rare instance that a --

MR. CHAMBERLAIN: By the time you get there, I've contracted the disease.

CHAIRMAN: As we all know as professionals here, too, that we are to use universal precautions in everything that we do.
and handle. But one of the things that we're concerned about is those folks that know -- don't know to use universal precautions and expose it to the rest of our public. Okay. All right. Any other questions before -- I thank you so very much. I know this wasn't what you planned for, but, please, these are some of the concerns that us and our public have, and if you can, once again, please take this and see what you can do to help protect our consumers here in Missouri.

MR. WANKUM: And I just wanted to point out for your information and the information of the public, that you do need to contact your county health department or local public-health agency. On the department's Web site, we have the contact information, including telephone numbers and addresses of all the various county health departments.

So, you know, consider our Web site as a resource if you need -- if you can't, for some reason, find it in the phone book or something like that. We have everything on our Web site.

CHAIRMAN: Do we have any other departments that would like to make any...
remarks or statements here at this time?
Okay. Agenda-item #11, this was a letter that
was written by someone in a question to the
fee to charge for a casket delivered from an
outside provider as far as disposing of the
packaging and materials that come along with
the casket. And we attended recently the
Tri-State Convention in St. Louis that the
MFDA and the IFDA and Kansas were together on,
and they had -- the National Funeral Directors
Association had their attorney, Scott
Gilligan, and I asked him about this. And his
wording to me was, "You cannot charge to
handle any of the packaging at this time."
However, they are trying to make attempts with
the FTC to -- and they do realize that there
is extra handling when this happens. But from
the NFDA attorney at this convention, he said
that, you know, he would advise not to charge
this as another charge to handle additional
packaging. But if anybody has any comments or
concerns. And speaking of, I've run across
people that said, "You know what? If the
casket is the family's, the packaging is the
family's. Let the family know that their
packaging is here and they can come pick it up and dispose of it." Now, that sounds pretty harsh, but, I mean, that's just one of the realities, that there is additional trash and, fortunately, we haven't had the chance to experience that yet at our facility, so -- but, anyway, if there's any concerns or questions on this item? If not, we'll move on to the next item, which is item #12, which is the embalmers and funeral directors late-renewal report.

MS. DUNN: That just gives you an update on the renewals for this two-year renewal period.

CHAIRMAN: Okay. Item #13 is our up-and-coming conference. This is a 2006 CLEAR Conference scheduled for September 13th through the 16th. Any board members that would be interested in attending this, please make sure that you let our office personnel know so we can govern ourselves appropriately on this. Item #14, before we get into the public suggestions and proposals, I think, at this time, why don't we all take about a five-minute break or no more than ten.
Off the record

CHAIRMAN: We are now on agenda-item #14. Fourteen calls for public suggestions and proposals. We want you to know that we will take all public suggestions and proposals under review and consideration before or at our next board meeting, even though our time constraints are pretty short as far as if we are going to do anything, but we are taking all comments, suggestions, and all letters under consideration. So, at this time, does anybody have any statements? The purpose of this is not to really reinvent the wheel, but maybe make some clarifications to make the wheel roll a little smoother. We, as a board, a lot of times see some of the same issues or complaints or problems. And when you see them over and over again, that tends to make us, as a board, realize that maybe there is ambiguities or need more clarifications to make sure there's a better understanding between the public, our licensees, whether it be in our providers or sellers or establishments. And this is the time that we would like to take and have you share your
thoughts and concerns as far as any of the
regulations or statute changes. We do have
some letters that have been submitted from
some people that are unable to be here today.
Mr. Stotler did send a letter in, and I hope
everyone had a chance to read that. It talks
about some of the things as far as that could
be concerns -- obviously, are concerns. If
anybody would care to comment. I want you to
know what we're going to try to do. With the
amount of people we have here today, we're
going to ask that when you make your comment,
if you just would come up. We have a
microphone now, so everyone should be able to
hear a little bit better. But if you have
any particular comment that you would like to
make, now would be the time to come up and,
if you're signed up on the list, we would like
you come in the order that you signed up in.
And even if you're not signed up and you have
a comment, just come up, sign, and we
appreciate your input. So, at this time, I
would like to call the one, the only, Mr. Don
Lakin.

MR. LAKIN: I'm probably going to have
two or three comments to make after some of
you make comments. One comment that I would
like to make, I would like to see, and I
certainly do not mean this against the
Attorney General's Office. I want that
cleared right now. But I think next month,
you're going to make some changes of having
not the Attorney General's Office and private
counsel. It has always been the problem with
the Attorney General for this board to make a
form or a regulation that covers everyone.
They do not want you to put out any forms
that can be a questionable form, such as a
preneed contract, an at-need contract, or so
forth. I would like to see this board take
under very serious consideration that you make
a universal prearranged contract and a
universal at-need contract, that when somebody
from Ken's funeral home comes to mine, that it
is the same contract as mine. There is more
problems that come before this board, there
has been in the past, of contract wording than
there should be. Some funeral directors have
different ways of making their bill that they
give to the family. It's a different type --
I think, number one, it would help everybody in this industry if the preneed contracts were universal and that the at-need purchase contracts were universal, where I don't have Don Lakins' contract and it don't look anything like Ken McGhee's, don't look like any of the rest of yours. And the Attorney General's Office has always said, you know, they didn't want to do that. Get an attorney, draw it up yourself. I think it's very confusing to the public, and this board is a public board. This board is to regulate licensees and to watch out for John Q. Public. I think that if they had a universal contract -- sellers, preneed, buyers, whatever -- that it would help tremendously for regulating these boards. Mr. Stutler's letter, I look at some of the things in here that I read, and when you go to opening up the preneed law, there is a couple things that you have to take into consideration. And as I said, there's other people that's going to make comments that's not going to agree with this, and I think that's fine. That's why we're having this meeting. When you open up 436, you're
going to open up all kinds of things,
including insurance, which I work very hard to
get insurance providers that we're writing
preneed to pay the $2 contract fee. When I
come on this board, they did not pay the
contract fee. There's things in 436 when you
open it up, it's going to be opening up a can
of worms. Everybody -- the insurance, the
banking, the trust companies, everybody is
going to come in and they're going to have the
whole thing where it's going to be worse to
regulate than it is now, and I know it's very
hard to regulate now. I understand it's got
some problems in it, but -- but the universal
contract would help somewhat in the problems.
And when you open it up, you have to know
that the banking industry is going to get in
it, the insurance industry is going to get in
it. There's several other industries that's
-- and probably, I wouldn't be a bit surprised
if your casket retailers -- your casket
sellers, are not going to get involved in
preneed. And you've got to stop and really
think about that when you open up 436. It's
not the best law in the world, but I can tell
you a lot of laws. We've got a Health
Department law here that's not the best law in
the world, you know. It's hard to figure out
who's going to take this responsibility. But
under 436 right now, you sort of know where
you're at. But when you open it up and you
bring all these other entities into 436,
you're going to have a lot of problems and a
lot of people involved that's got a lot of
money to do things with. And I'm going to
give up my time now, but I may be back.

CHAIRMAN: Thank you, Mr. Lakin. As
always, the board appreciates your comments
and concerns. Mr. Don Otto?

MR. OTTO: Thanks for this
opportunity. This was a very good idea. I'm
wearing two hats, as usual, today, the
Missouri Funeral Directors Association and the
Missouri Funeral Trust. I'm going to do it
backwards from the order I intended, since it
follows up real well with what Don just said.
And on behalf of the Missouri Funeral Trust, I
agree that opening up 436 might cause
complications, and you get a lot of interest
groups going in there; however, we believe
that perhaps at some time that that's going to
have to happen. We think that the board
already has a great deal of authority under
436 that it may not be using to its fullest
potential. When inspectors go out, they do
check to see if the contracts are signed.
They do check to see if the contracts are
filed in the right way. I would like to see
more checks to make sure the money got to
where it's supposed to be. You can sign the
contract and pocket that money and take it to
Bermuda, and if the inspectors or this board
is not checking on where the money goes, it
doesn't matter how well you sign the contracts
and how well you file them and how well you
put them away. We've had a number of problems
in the past year where had there been more on
anybody's back -- whether it's the Attorney
General's Office, whether it's this board,
whether it's local prosecutors -- had there
been more proactive inspections and audits,
whatever you want to call it, of enforcing the
rules that already exist, those problems would
have prevented instead of coming in and having
to clean up messes after the fact. I know as
going back as to 1998, we have correspondence
in our files where we were requesting the
state board to please -- and this was after we
had removed the Salem Funeral Home from our
organization -- we said please go in and
inspect the books of this place, and we wrote
the Attorney General's Office asking for that,
too. And, of course, eventually that
happened, but it was after the money had
disappeared. We think you already have the
authority to do a lot more. If you think you
need the authority to do more, we'll support
you, and we'll go over there and go to bat
for you to seek more authority if your counsel
says you need it. I have handed out for --
back to Missouri Funeral Trust -- a few
proposed ideas that we have for you. Again,
no rules will help you unless you are
aggressive in enforcing them and inspecting
them. One problem that you have currently
with the preneed area is that people who sell
preneed, 436, do not have to be licensed in
any way, shape, or form; therefore, you have
no control over them. Nobody does. They
don't have to have an insurance license; they
don't have to have a funeral director's license or anything. In order to change that under Chapter 436, you would have to open up 436, which would potentially, if you decide that that's not the way you want to go because of the other problems. There is, however, a way, I believe, to legitimately solve that problem under Chapter 333. Chapter 333, as was mentioned earlier, gives you very broad power, particularly 333.111 gives you the power to create and enforce rules for the standards of service and the practice to be followed in the profession of embalming and funeral directing. Therefore, we believe that you could, with your current authority, adopt a regulation that says no funeral director or funeral establishment shall allow any person to sell on their behalf to the public any preneed funeral plan as set out in Chapter 436 unless such person shall hold a valid funeral-director's license, a valid limited funeral-director's license, or a valid license to sell insurance in the state of Missouri. You are not regulating those people, you are regulating the funeral director. You're
saying to the funeral director, you are not
allowed to have somebody out there
representing you on your behalf unless they
meet these standards. A lot of the preneed
people already have insurance licenses. The
limited funeral-director's license, of which I
understand there are 11 of them, and I've got
one of them, is not difficult to get. It's a
50-question test on the law. About half the
questions are on 436, which, if you're selling
preneed, you ought to know. The other half of
the questions are what funeral directors are
allowed to do and what funerals are supposed
to consist of, which, by golly, if you're
selling a preneed funeral plan, you should
know that. So, we don't think that that is
onerous whatsoever. That would then give the
board the authority to, if that person selling
it is violating any of the already existing
rules dealing with false advertisement, undue
influence, misrepresentation, you can then
take away that person's license, if it's a
funeral director's or a limited
funeral-director's license, and then that
person under Chapter 333, no funeral director
could use that person to represent them. So, that is one suggestion that we have that we would like you to consider. We also believe that if Chapter 436 gets opened up, there are a lot of changes that can be made that are good for the public and good for the funeral service. We believe that none of those changes will be -- even the good ones that people have come up with, and some of the good ones that are in this book already, will do any good unless they are enforced rigorously. And we would urge the board to enforce the existing 436 rules rigorously, and, again, if you feel you need more authority, we will support you 100 percent on that. We also believe, however, that no matter what the rules are, the way the system is currently designed, at best, you're going to find problems -- not maybe at best, but in many cases, you're going to find problems after the fact, after the money has already disappeared, after those preneeds are not funded. I think of no regulation that you can submit that will be 100-percent effective, and I can think as long as we have the 80-percent-funding rule --
as the letter that's already in there points out, it's one of the lowest in the country, if not the lowest. It is, frankly, just an invitation to disaster. Now, what you would increase that to if you opened up 436, I mean, I threw out the number of 95 because that still allows a 5-percent commission. A number of states have 100-percent-trusting rules. Some have 90-percent-trusting rules, as is suggested in the letter that you have in your book. I'm not an actuarial expert to come up with the exact number. I know 80 percent is a recipe for disaster. The problems we had in Unionville, in Salem, in Vandalia, those would not have happened if there was an enforced 100-percent, 90-percent, 95-percent-trusting rule. I recognize that if we do that, it will hurt the revenue of some of third-party sellers, including the Missouri Funeral Trust, because we will probably have people that shift to insurance products where you can get a bigger commission or decide, well, if it's 100-percent-trusting rule, I might as well just go into a certificate of deposit across the street and it's just as easy. I recognize
that it would hurt the bottom line of a number
of people in this room including us, and some
people that I respect and some people that I'm
good friends with. But we think that the
board's responsibility is to the public and to
funeral service, not to me as a third-party
seller. And so, if 436 gets opened, we don't
think there is any single rule that isn't
already on the books that would make a bigger
difference than changing the trusting
percentage, and we don't think that any other
rules will completely solve the problem as
long as we have 30 percent. And we want to
urge, on behalf of the Missouri Funeral Trust,
that even if 436 isn't opened up, even if you
don't make a single change to that, we believe
you already have the authority to audit, to
inspect, to investigate, to make sure that the
money is going where it's supposed to go, and
we hope that you do that. Shifting hats to
the Missouri Funeral Directors Association, I
have a separate document that's been passed
around there. We realize that you have been
faced with the challenge of how to handle
individuals and organizations that may be
operating as funeral directors without a license, and we applaud the board for dealing with that situation we had in St. Joe as best you could and going after the injunction that got misrepresented in the press. I wrote letters to the editor back to several publications. None of them got published. It was a darn good letter, though, if any of you want a copy of it sometime, and it gave you folks a lot of credit for doing what you did, but it didn't get published. One problem we note with the existing statute that I think perhaps may have caused the board some difficulties in the past with dealing with some people is the fact that, under Chapter 333, the practice of funeral directing includes in it the phrase "in the business of" the following litany of items. Unfortunately or fortunately, perhaps, the legislature chose not to define "in the business of." Since that is a term that needs to be interpreted in order to effectively enforce the statutes and it was not defined by the legislature, I am of the opinion that this board has the authority under Chapter 333 to define "in the business
of." And we have set out a proposed
regulation that obviously it can be added to,
it can be subtracted to, it could be changed
-- that's just one idea off the top of my
head -- that would define "in the business
of." It includes, of course, taking a direct
payment for doing any of those activities
listed in 333.011(?), but it also includes
soliciting donations for a charitable group in
exchange for those activities, and it
includes, in effect -- the best way is an
example. I'm going to give you free funeral
advice. I'm not going to charge you a thing
for this funeral advice that I'm giving you.
I'm going to arrange this funeral and not
charge you a thing. Buy this $5,000 Chinese
casket from me first. Okay? This proposed
regulation takes care of that, in my opinion,
because it includes the sale of merchandise
used in providing those activities defined
under Chapter 333.011(?) as funeral directing
if you're selling funeral merchandise that is
being used in those funeral activities that
you are doing that is "in the business of"
funeral directing. That tries to close up
what might be a loophole out there of somebody saying, "I'm not in the business of funeral directing. I give free advice to people. But I only give free advice to people if they buy one of my caskets." But, anyway, obviously, this is just a suggestion. You might have a lot of different ideas that you might want to add into this, but we think that it would help the board and it would help people out there, the public, understand what a funeral directing is or isn't if "in the business of" is defined. Secondly, although this is completely -- it sounds like it's completely off the track from what we've been discussing so far today, but I don't think it is.

Chairman, you indicated that one of the things you want to try to avoid is these problems that keep cropping up over and over again, the ones you keep seeing all the time as a board member. We think that it is time for Missouri to join every single surrounding state and the majority of the states in the country in requiring continuing education for funeral directors or embalmers. Should there be some kind of grandfathering in? Yes. Should it be...
not an onerous situation? Yes. We don’t want
to see 50 hours every three months or
something like that. We don’t want it to be
expensive. We don’t want it to be difficult.
I certainly don’t want it to be as many hours
as I have to do to keep my law license up,
because that’s every year, and I’ve never met
the deadline once, I don’t think, without
having to send in my late form for doing that.
But we do think it is time for that. With
the time constraints we have here, this not a
place or time to set out a full-blown plan on
how to do that. We do believe you already
have the authority to do that. You do not
need statutory changes. Again, under 333.111,
you have that very broad authority. It
specifically says that "This board may
prescribe a standard of proficiency as to the
qualifications and fitness of those engaging
in the practice of embalming and funeral
directing. So, I believe today -- you know,
you do not need to go to the legislature, and,
of course, your legal counsel will advise you
on this, but we’ve already heard how broad
that I think everybody feels that you’re
enabling language is. So, we believe you
could do this right now. We don't want it to
be expensive for people. We don't want it to
be difficult for people to get it done, but we
do think it needs to be done. I was
personally seriously concerned two years ago,
we did an OSHA seminar at the Missouri Funeral
Directors Association, and we sent faxes and
e-mails out to every funeral director in the
state that we had numbers for, and mailed them
out to everybody else, saying that you can get
your annual OSHA training requirement done by
attending this seminar. The number of calls I
got back from people saying, "I don't need
OSHA training. I only have three employees"
was scary. Wrong answer for anyone that
doesn't know. If you have one employee, you
have to have OSHA training, and that was
scary. The calls I get on a day-to-day basis
of things that people should know -- for
example, how much -- you know, I'm opening up
a joint account across the street for pressed.
How much can I keep back? Can I keep the
whole 20 percent? Well, the answer is no, of
course. If it's a joint account, there is no
20-percentage retention, but people apparently
don't know that out there. And the laws
change every day on OSHA -- or every day --
every year on OSHA, on the FTC rule, on our
own regulations. We believe it is time that
there be some sort of continuing education,
and we want to open up that dialogue with the
board, we want to work with the board over the
next year to see if something can't come up.
We are open to the possibility, if the board
should so desire, to run any
continuing-education program on behalf and
report those results, similar -- not
identical, of course, because they have a
different regulatory scheme -- but very
similar to how the Missouri Bar Association
handles continuing-education requirements on
behalf of the Supreme Court. We would try to
endeavor to do something that would, in
effect, create as much as possible a zero
fiscal note for this board. Obviously, if we
did something like that, if we had costs,
those would have to be recouped, but we would
make sure our books are open, because we're
not looking to make a windfall profit off of
this or something like that. We just think it's important enough that as long as we can cover our costs, we'd be happy to do it on behalf of the State of Missouri. The details of that would have to be worked out. There's a lot of things, like how many hours, grandfathering, and such that. But we do want that dialogue to be open because we think now is the time. Every state around us has it. Most of the states in the country do. Eventually, we are heading with the Department of Labor that if you want to be considered a professional, there is going to have to be a continuing-education requirement. A lot of our professions that are regulated by our people here have continuing-education requirements, and if we want to be considered in the ongoing future, I believe, to be a professional, I think this is something that we need to seriously consider. Other suggested regulatory and statutory changes that we would like you to look at, if at all possible, although this takes away one of my best jokes when I go out on speaking engagements, I think we should change Chapter
333.121(18) which makes it a misdemeanor and a reason to have your license taken away if you fail to fill out the back of a death certificate. Everyone knows that there’s nothing on the back of the death certificate anymore. There hasn’t been for a number of a years. But the statute that requires you to fill out the back of the death certificate has never been changed. More importantly, we think, a little more substantively anyway, we would like to work with the new department when all the new regulations are redone and all those are shifted over. We would like to see all of the record-keeping requirements of embalmers, funeral directors, and cremation facilities placed together where if somebody wants to know what do I have to keep recordwise, and how long do I have to keep it, you can get out your green book and you can look under one heading instead of having to flip through five different things, and making sure that you have covered everything, because there’s some sections on these are records you have to keep five years, these are records you have to keep forever, these are records you
have to keep for embalming, these are records
you have to keep for cremation. Some of them
overlap, some of them don't overlap. It would
be nice, particularly with this opportunity
where we're going to have to move things
around in the regulations anyway, to see if we
can't fit those, as was mentioned earlier,
together where it's easier for people to look
up and find the answer to that. As part of
that, we would like to see 4 CSR 120-2.071
rewritten to make it clear how long cremation
logs must be kept. The current regulation
says a cremation log must be kept for the
current year and the preceding year. You
can't keep something for a preceding year.
It's already happened. If you want us to keep
it two years, tell us two years. If you want
us to keep it for the rest of this year plus
another year, that's fine, too. But the best
way to think about it is what if I started a
crematory today. This is my first book. How
long do I keep it? Can I throw it away at
the end of the year? The statute says you
have to keep it for the current year plus the
preceding year. The preceding year has
already happened.

CHAIRMAN: Well, if you're just
starting, then it hasn't happened.

MR. OTTO: But you don't want somebody
to open -- start a cremation log book on
December 1st and throw it away December 31st.

CHAIRMAN: Well, of 2006. But then
when you go into 2007, the preceding year is
2006.

MR. OTTO: Right. But the statute
says you have to keep your records for the
current year and the preceding year.

CHAIRMAN: Which is 2000 -- it would
-- the preceding year to this year right now
is 2005.

MR. OTTO: No. It would be 2005. But
that's already happened. That's already
happened.

CHAIRMAN: But that's why you keep
them.

MR. OTTO: But if you just start the
book today. If you start the book today, can
I throw it away at December 31st, because the
preceding year has happened. The way it
should be worded, and whoever came up with
this long ago, I know they were thinking. But
the way it should be worded is you keep it
for your current calendar year plus another
year, or plus another two years, or two years
from the date that the document was created.
But that's just one of the examples where a
lot of our record-keeping things, I think it
would be nice if they were cleaned up. And
like I say, we appreciate this opportunity to
be here in front of you today. We appreciate
the activities that you have done on dealing
with these injunctions and with these other
folks out there that are operating sometimes,
at least allegedly, without a license. And to
sum up, and this covers everything, I think,
that's been discussed here today, I took a
look at that conference a lot of folks
probably are going to and a lot of it deals
with the pandemic situation. What happens if
you have a lot of dead bodies lying in the
street from the bird flu? I doubt it will be
the Institute for Justice and the Consumer
Alliance that will be there to pick them up.
It's going to be your licensed funeral
directors, and we need to do everything we can
to protect funeral service and the public so that we're there if and when that time comes.

Thank you.

CHAIRMAN: Thank you very much, Don. We appreciate your comments and concerns there. Is there anybody else that would like to take a few moments to come up and express some concerns or just some opinions or questions in reference to any of the topics that we're talking about or that have been put before us? Any board members -- oh, we have one. Here we go. We need you to sign --

MR. SINGER: Just one short one.

CHAIRMAN: Hold on. We need you to sign in, fellow.

MR. SINGER: I hadn't planned on saying anything, that's why I didn't sign in. I only want to comment on one part of the Stotler letter, and one part of the MFDA comments. I'm thankful that Don Otto brought up the Supreme Court, because I did a little research yesterday and found out that there are 11,562 lawyers in the state of Missouri, and they had mandatory continuing education, and they had 2,473 complaints. Last year, there were
26,000 preneed sold in Missouri. There were
over 55,000 deaths, which was 81,000
dearth-related transactions. This board only
had 100 complaints without mandatory
education. Thank you.

CHAIRMAN: Are you sure you don't want
to say anything else there, Randy? That's the
shortest I think I've ever heard him speak.
Okay. Thank you very much. We appreciate
that. The following statute and regulation
proposals have been provided for review and
discussion from the State Board of Embalmers
and Funeral Directors, item #14. If anyone
has any comments or suggestions, please feel
free to raise your hand and let us know. One
of the things that I would like to point out
is on 122.070, item #25, right now, we don't
have anything that really lets us know about,
you know, how to maintain or how to regulate a
crematory that has a tort that is not
functional, that is not operating. And one of
the things that we were thinking to make a
little bit more clarification to help to avoid
any situations that might arise such as
Tri-State where they had a crematory tort, as
many of you are aware, that was not
functioning, and they decided with other
measures to do things that got them in the
situation where they are today, is to propose
some type of regulation or requirement that if
a crematory tort is not functioning, you know,
within 90 days, you know, that facility would
have to repair or have that tort operating
again. And if there's a reason beyond
extenuating circumstances where they couldn't
and some of you that may operate or be
familiar with crematories better than myself
know that -- I do know and I did question and
ask a lot of people that are in the industry,
you know, how long does it usually take if my
tort is down, and I want to call to see about
getting it repaired, how long of a turnaround
would that take? And the average answer given
was it could take anywhere from as little as a
couple days if we fly someone up there to
handle it right away. A lot of that would
determine whether they had the part available
or the item that they would need to fix that.
But some of them said, you know, it could take
as long as 30 days. And if it's a really
extenuating circumstance, you know, it could
take up to 60 days to get a certain part,
depending on how much work was needed to be
done to the crematory. So, one of the things
that we, you know, want to put out for review
and let you know is that, you know, I think
90 days, in talking with some people in the
industry, is an ample amount of time for a
crematory to have its torts inoperable and
functioning, so that way there is no ongoing
of a crematory that does not have an
operational tort that decides to start doing
other methods or contracting out to another
crematory which, right now, this would help
let them maintain whether they want to keep
operating as a crematory, function B, or not.
And I think that's something that would be
good and something that our public would be
happy to know, that we do have certain
requirements for our crematories, which, at
this time, we do not regarding that issue.
Does anybody have any comments on that or
suggestions or other thoughts?

MR. ZELL: What about multiple
chambers?
CHAIRMAN: Well, if you have multiple chambers on your premises and you're licensed, as long as you have an operating tont on your premises -- let's say you have two or three and one of them is down and you have another that's still -- I don't think that's the intent of what we're trying to do here. It's if you're on your premises and you only have one and that one is not working, or you do have two and both of them aren't working, I think then we have a responsibility to make sure that the person operating that crematory does take the necessary steps to fix those rather than kind of skirting around the obligation of being a licensed crematory by either subcontracting out or, you know, like I say, to help prevent any ill-doings of what we've seen in the past few years with the Tri-State situation. Not that I would imply that that's what crematory people do, but these folks did. And people always ask, well, you know, and you know we had a lot of flak and fallout after that happened. And people say, "Well, you know, can that happen in the state of Missouri." because, at the time,
Georgia was unregulated. And we are a
regulated state and we do have inspectors that
go out at least once a year, maybe twice, but
at least to go out. And I say, "Well, if it
did happen, we should have caught it within
six months then," because that's -- you know,
if you break it down to one inspection a year
or maybe two, then that's the reasons why we
have our good folks back there in the back go
out and, you know, inspect funeral homes and
the crematories as they do. So, once again,
this is just something that we felt that was
very strongly needed to make sure that we can
regulate the crematories and not run into any
problems or avoid any problems. Okay. Any
concerns, thoughts? You'll see also on here
that some of the items in red would be
additions, some of the blue in the brackets
would be deletions, and purple have been
questioned from the industry for possible
modifications. And if you look under the 333,
you can go through, and I'm not going to read
every single one of these, but if you would
just take a moment to scan through and see if
there's anything that jumps out to you that
you may want to have a comment or remark on, now is the time to do such.

MR. LAKIN: Next time, don't put them in purple. They're too hard to jump out and see. The black and the purple run together for those of us that's color blind.

MR. SINGER: I will make one more comment. In the part that you were just speaking about, the proposals that have been made by we don't know who, there was one in there that said if you're getting ready to sell your funeral home, when you notify the board that you're going to cease doing business, you also have to notify every one of your preneed purchasers, your account holders. I think that would be a horrible thing to put in a law because, having been involved in several transactions of buying and selling, it's one thing to notify the board that you intend to sell. It may or may not go through. But once you tell all of your preneed holders in your little community that you're going to sell your funeral home, they may decide, well, we want to go somewhere else and we don't want to have the new guy, so now
the new guy is not going to buy your funeral
home. So, now, you've notified everybody
you're going to sell, and you don't get to
sell. And I don't think you're going to have
any purchaser of a funeral home -- any seller
of a funeral home comply with that. So, I
think you're just asking for people to disobey
your rule or your law.

CHAIRMAN: Just in dialogue, Mr.
Singer, don't you think that it is the
purchaser's choice if there has been a
transaction that's going to affect them, to be
able to say, "Hey. I came to your funeral
home because you're my friend and you've dealt
with Mom and Dad for all these years, and now
you're getting ready to sell and move to
Florida. And you know what, I just happen to
be friends with Joe down the street, and now
that you're no longer going to provide this
service, I would like to make that choice and
have that choice to use Joe's funeral home
down the street. Nothing against the new
people, but that's my choice." And I think,
once again, as being a board to try to protect
the consumers, I think once we start taking
away choices from the families that are purchasing this with their money, because this money is sitting in trust is their money. It's not our money. I think that's where we kind of -- I think that's just one of the concerns that we have when we were talking about doing this to give the families a choice, because if you take yourself out of the industry and this was something going on with your family, would you want that choice? And I think that's the only thing is in the proposal that we're looking at on here. But I respect you' comments on that, but --

MR. SINGER: I don't think the people have given up their choice. I think it's a timing issue of when they're notified. Almost every time there's a sale, it comes out in the paper, new owners of the funeral home. Sometimes it doesn't. Sometimes there's reasons that you want to sweep it under the rug. But, usually, there's an open house and the new owners are standing there with the old owners and you're welcoming everybody. But I think if you put this requirement on a seller of a funeral home, when we sold our funeral
home in 1989, if we would have had to the
same time we notified the board that we were
cease doing business, we were still staying
there. There weren't any new people coming in
to run the funeral home. The same folks will
be answering the phones, will be picking up
the bodies, will be embalming the bodies. So,
this would have been a very onerous thing if
we would have had to notify all of our
trustholders that we were just thinking about
selling our funeral home, and then that could
have quashed the deal. Deal's get quashed for
a lot less reasons than that. But if I
wanted to sell my funeral home, just because
people have their trust with me, I don't think
they should be allowed to jeopardize my sale.
After the fact, if you want to put that in,
after it's been sold, you notify your -- you
know, the new guy is going to be sitting here
then saying, "Oh, wait a minute. We don't
want you to notify then."

CHAIRMAN: And I think that's a very
valid point there as far as the timing of that.

MR. SINGER: Yeah.

CHAIRMAN: And I think that's what
we're getting at, but I think we're both in agreement to try to keep the consumer protected during this process. And, once again, that brings one of the things to light as far as with our seller's license and a provider's license, does the provider have the right to transfer a seller's preneeds from one account to another account, and -- because the prior provider is just listed in the contract as the person that's going to provide for the services. So, how can the provider designate or give permission for the seller to move from one account to another account, which sometimes often gets docked again, how can the provider have that right to do so, and that's just another concern as far as consumer protection because we're talking about 80 percent. And if it gets moved again and there's another dock, now you're talking about another 20 percent, which puts you down now to 60 percent.

MR. OTTO: No. No. No. It doesn't work that way.

CHAIRMAN: Well, come sign back in and explain it to us.
MR. OTTO: I have a quick question.
CHAIRMAN: Okay.
MR. OTTO: Is there a difference between the bold-faced purple and the nonbold-faced purple? For example, on page 33, we have both nonbold-faced purple and bold-faced purple.
MS. DUNN: I don't think so, Don.
I'll have to look it up.
CHAIRMAN: That was after Don Lakin called and said he couldn't read the small, so we put it in bold, and we got it done just that quick.
MR. OTTO: And when it is in purple, is that -- that's not necessarily an addition or a change, it's just something that somebody wants to look at?
MS. DUNN: That there's been a question presented to the board about that, and so that's why we put it in purple.
MR. OTTO: So, when it's in purple, it's always language that already exists in the law? That's my question.
MS. DUNN: It should be.
CHAIRMAN: There's just been a question
brought up about it.

MS. DUNN: It should be. It's not something that we were intending to make a change, but there had been a question brought to the board about it.

CHAIRMAN: Rand'y, didn't mean to cut you off there --

MR. SINGER: No.

CHAIRMAN: -- but do you want to elaborate on that?

MR. SINGER: Well, there's probably other people besides me that can elaborate on that, but there's only one 20 percent. If Ken McGhee Funeral Home --

CHAIRMAN: Don't use me. Use somebody else. Good gosh.

MR. SINGER: Okay. If Becky Dunn's Funeral Home has 100 preneeds and they're all $5,000, they've got $500,000 in there, she's allowed to keep 20 percent, $100,000. If she then sells that funeral home or moves it from one bank to another, they don't get another swipe at the apple and only leave 60 percent. That 80 always has to be there.

CHAIRMAN: Any questions or comments?
MR. OTTO: I would agree that that is how it should be, but I believe that that is not how it's always happened out there, particularly on rollovers where a provider is changing from one seller to another. I don't think that's always happened, and I agree that that shouldn't happen, but I think that's a concern that perhaps needs to be looked into.

CHAIRMAN: No we have any other -- and I'm not trying to be picky, but any other third parties or anybody that would want to comment on that? I'm pointing to both of you. You're looking at each other.

MS. RUSSELL: I'll make a comment.

Darlene Russell. The only comment I would have is we agree, being Capital Reserve, and myself as a funeral director, and my husband as a funeral director, we pretty well basically agree with Bill Stotler's letter on the changes with regard to 436. This board has had so many difficulties in trying to regulate Chapter 436, and I believe the time has come to make those changes. The whole problem that you all are discussing today
really boil down to whether or not the board
has the authority to examine on a random basis
the books and records of a seller. And if
you start doing random audits again or random
exams, I think you'll discover your problems
that are out there. And the problems that you
had with Vandalia and Salem and all those
things would have been put out there in forth.
Most of the funeral homes, if they know
they're going to be audited, are on the more
straight and narrow. I do not believe you
have the authority right now without opening
436 other than when it's consent to examine
when there's a cease doing business or a
complaint. Those are the only two.

CHAIRMAN: Question, Darlene. From
your history, are you saying that we used to
have the authority to random audit?

MS. RUSSELL: Randy and Don could
probably address that better, but, yes, the
board at one time did do random audits, and we
had the -- Jim, you recall this. We had
situations where, in fact, we had a
third-party seller that was a minister, and
that was the prearranged services -- Richard
Hill, I believe, was his name -- where when
the board was doing his examination on a
random examination, they ended up finding him
with a moving van backed up and skipping town.
And because they were able to stop it,
consumers did -- some of the consumers were
saved. But I'll tell you who suffered is the
funeral homes of that missing money. The
providers are the ones that actually suffered.
But the board has been questioned time and
time again whether they have the authority to
randomly audit or examine. And if you could
get one thing accomplished -- one thing --
even the 80-percent thing is not as important
to me as getting the Board the power to
randomly audit and exam. I think you'll find
your problems -- you know, Department of
Insurance requires us to have a financial
exam, you know. And so, I don't see where
there's a difference between preneed and
insurance in having to be audited.

CHAIRMAN: Just in dialogue, Darlene,
not to keep you. And this is for everyone.
Just in dialogue, do you all think that having
a more detailed report. because right now our
annual report is basically how many contracts did you sell, and what's the face amount. Do you think it would be advantageous to have a more detailed report? I mean, this is just something -- because how do we know if it's 50 contracts at a certain amount. And then you have someone close down and say, "By the way, all our outstanding preneed is already taken care of. There is no more outstanding." And then just a few years later, we get a call that someone approaching a funeral home says, "I got this preneed contract from such-and-such funeral home, and they're no longer in business." And we have documents stating that we have no outstanding. How is -- and I know that there can't be, you know, the resources it would take to try to make sure that we, you know, dot every I and cross every T. But if you have that situation such as the one up in Kirksville where if there would have been a report like that, and someone would have been able to call in and say, "Hey, you know, I have a prearranged contract with such-and-such funeral home. Am I even documented, because I've been paying
this man for five years. Am I even in his
documentation to show that he has been doing
what he was supposed to do with my money and
not backing up to the -- and trying to move
and get out of town." And that's just one of
the concerns that that might help alleviate?
I don't know, but this is just something for
discussion.

MR. WATSON: If you have someone that's
unscrupulous and lying on their reports now
that's filling out the little simple report,
just because they have to fill out a more
complicated report doesn't mean they're going
to quit lying. That's not going to solve that
person that's determined to do it illegally.

CHAIRMAN: Don?

MR. LAKIN: You cannot legislate
morality. You're either honest or you're
dishonest. You can't legislate, you can't
right -- we have people murdering people every
day. And you cannot legislate morality. You
have to look at the funeral director and be
honest. The man has to be honest, number one,
that sells preneed or any of it. And I agree
with Steve 100 percent. You can't legislate
morality.

MR. WATSON: That's right. You know, when you fill that report out and you send it in, there's nothing to reconcile that with the bank's records. Now, I've got my bank records there that shows all of my deposits that I make to my master trust, but none of that is sent in. There is no double-check except in my internal office. I mean, we tell you where the records are kept, but nobody ever checks them.

CHAIRMAN: We just know that there's been times when families have been hurt because of the fact of the unscrupulous. One of the things, too, that was kind of a concern in here that goes directly relating to that is there is nothing right now that says how long you can hold monies before it's deposited into an account, you know. We do have something that says that a family has 10 days to decide if they want a full refund of the contractual amount on a preneed account. But then after that, there's nothing that says, well, how long once they pay the funeral home or the seller, how long that that seller has before
they deposit that money into the trust account
or the funding mechanism they're using, and I
think that's been cause for concern, which is
touching on those situations in Salem and
whatnot, which I think has also been
disadvantageous to those third-party sellers,
because they've been the ones that had to bulk
up to make things right. And I think if we
had some type of situation or some type of
requirement that after the 30 days is up, you
have another 30 days, so 60 days. That gives
you plenty of time if the people want a refund
to get their full refund. And then from the
time you know that you are entitled to your
contractual amount, then you have another 30
days to do what you need to do to appropriate
those monies. And I'm just saying the only
reason why these are brought up as concerns is
because we've had problems as a board when
people haven't done that, and this is just to
help clarify and make things a little bit
smoother, and this is just one of the concerns
that we have.

MS. RUSSELL: xen, I just was going to
ask: The board has on your authorization, a
consent to examine and audit books you have to fill out. All the funeral homes have that on record. So, the board has the consent from the funeral homes or the providers or the sellers, excuse me, they have that already on record. Why is it -- is it budgetary restraints or do you think you do not have the authority to go back to random audits or exams?

MR. SINGER: Because there is no rule-making authority in Chapter 436 and that's where the rule is. So, that rule really is ineffective. And you're absolutely right. There are funeral homes in this city -- in this state that don't start a trust until the contract is paid in full. There are funeral homes in this state that when someone gives $10 down, they put $5 in the trust, and they give the counselor $5. There are funeral homes that don't start the trust until there's 20 percent deposited. I've kind of got to remember which hat I'm wearing. If I was wearing my old hat, that's exactly right. You need some kind of thing to say, "The cemetery law says when we receive money on a preneed with the cemetery, we have 45 days to deposit
it." The cemetery laws says the cemetery board can do random audits. That's not in this law. There is no law that says -- it says a reasonable amount of time. What's reasonable? It costs money to set up those trusts.

CHAIRMAN: Would the wording on that perhaps be better fitted if it would say the principal must be deposited within 30 days or 60 days after receiving, because if the funeral home or the seller is entitled to the first 20 percent, let's say it takes the family six months to get to the 80-percent amount, which is the principal. From that point that they receive the principal --

MR. SINGER: Actually, I don't want to stir up another can of worms, but the law doesn't say 80 percent anywhere. So, if someone wants to buy a casket and put it in storage, they can -- you know, I think they could. I think an argument could be made. The law just addresses the 20 percent that the seller can keep. It doesn't say you have to have 80 percent in trust, but I didn't want to start that.
CHAIRMAN: Well, you can keep up to 20, and we know that. But then you have another 80 percent that, depending on your situation -- because that brings up another issue, is that I think Mr. Stotler addressed it in his letter, as well, that you are only required to keep $250,000 in the trust. Anything --

MR. SINGER: No. That -- no.

CHAIRMAN: Okay. Well, help me out then.

MR. SINGER: Go ahead.

MR. OTTO: Well, if we do open up 436, part of the problem with 436 is what -- when did it originally kick in, '82?

MR. SINGER: '82 and revised in '85.

MR. OTTO: The way 436 envisions how the world will work is not how the world works. Not that anybody is doing anything wrong out there, because we have contractual agreements that have changed things. 436 envisions, for example, that when a death happens, the Missouri Funeral Trust will write a check to the funeral home. We turn around, tell the bank that we wrote a check to the
funeral home. The bank then writes us a check. That's how 436 assumed it was working. Well, we don't do that. We have the bank write a check straight to the funeral home. There's nothing wrong with that because we do that by contract. It makes more sense to do it that way. But that's one of the ways where the 436 world doesn't match up with the real world. 436 says that that 20 percent belongs to the seller. I can't speak for other companies, and with the Missouri Funeral Trust, if the funeral home elects to keep that, it goes to the funeral home. It doesn't stay with the seller. And we never keep the 20 percent under any circumstances, but -- so, in your question about getting stuff deposited, I think how, in the 436 world, how it was originally envisioned was that the money would go to the seller first. If that 20 percent was retained, it's retained by the seller, then it's the seller's to do whatever they want to with it, and it should go back to the funeral home -- (Inaudible). So, I think that's how that was envisioned, and, actually, that's how to do it now in most
cases. But what's happened in the real world is the funeral homes kept the 20 percent until it's gotten above -- you know, like I say, if it's $100 a month and a $5,000 contract. you're -- you know, and then they start putting the money in the trust. So, if you're going to start talking about this, you almost -- you know, it might be wise to look at how the real world is, which there's nothing wrong with that, but it doesn't quite match up with 436 and sometimes that causes disconnect when people are trying to figure out, you know, what the law says versus how things are working there in the real world. The easiest thing to do, if you're worried about deposits, is that every dime goes to the seller first and within X number of days. Then if there is going to be a retainage of 20 percent, it goes back from the seller to the funeral home. something like that, so at least you have a paper trail of where the money went.

MR. SINGER: Maybe. Maybe.

MR. OTTO: Well, it should, yeah.

MR. SINGER: And that's why 80 percent and 95 percent don't matter, because if you're
going to steal the money, you're not going to
record it.

MR. LAKIN: 436 was originally written
with that idea in '82, when it was originally
written, that you take the 20 percent out of
it and put the rest of the money in the trust.

MR. OTTO: Yeah. And so, things have
-- you know, like I said, it's been quite a
while, so there are a number of areas in 436
where how things -- and, like I said, I don't
think there's anything wrong legally with how
people are doing things. It's just by
contract, we're doing stuff differently than
how I think whoever wrote this down in '82
thought it was going to happen.

MR. SINGER: Stotler. Stotler helped
write it. MR. OTTO: And the last thing
is I agree with everything -- I do believe you
already have this authority. On the
436.021(2)(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 the depositing account.
throughout, the staff of the Division of Professional Registration who conducted the audit shall not release the information unless they find something." I think you already have that authority to do that under the current statute, both the providers and the sellers have to sign a consent that gives this board the authorization to order an examination and, if necessary, an audit. Those must be two different things, otherwise, you wouldn't have used the words differently -- by the staff.

MR. SINGER: Great care was used, because then the Attorney General, you know, their job is to punish people, you know. And an audit, "Oh, my God. They're getting audited," you know, over at Watkins Funeral Home. It's almost a whisper. But an examination, "Well, we're conducting an examination." And then if that leads somewhere to an audit.

MR. OTTO: That's a good idea. Yeah, that was good thinking.

MR. SINGER: Yeah.

MR. OTTO: But I think you already
have the authority to check the books and
records of my company, of our sellers, of our
providers without any further thing. But if,
for some reason, you think you need more or if
your counsel tells you you need more or
whatever, we'll go to bat for you.

CHAIRMAN: One thing in closing.

That's what the minister always says. In
closing, we always say, as the airplane is
starting to put his landing gear out, there is
one more thing we want to touch on here just
because it's been something brought up, and
with the input of you all here, we appreciate
this. The irrevocable-contract option has
been another button that gets pushed a lot.
And recently we have been led to know that
some Courts may say that it's okay to return
the money back to the family now. And when
does it actually constitute it becoming an
irrevocable policy? Do you have to be
currently receiving the supplemental Medicaid
or whatnot? Is that up to us to return it
back to the families, or should, if the Court
orders that to be done, should the seller
return it back to the Division of Family
Service and let them worry about checking to
make sure that the person is not receiving any
kind of Medicaid or any supplement, which is
the intended purpose of what the irrevocable
clause is, because I will say this: You have
a situation where you have a young man and
wife, married in their 20s. They've been
married for eight years, and they went out and
said, "You know what. Let's buy the plots.
We're buying the service, the whole thing, and
we're going to do this. I want to be buried
next to you or on top of" -- or however. The
next thing you know, eight years later,
there's a divorce. They can't stand each
other, don't want to be anywhere near each
other. They're in their 40s now. They have
not received any kind of supplemental income
or Medicaid or anything of that nature, but
they want to come and say, "You know what. I
better go ahead and get this fixed because I
don't want to be anywhere near him. He
doesn't want to be anywhere near me." And we
say, "Well, you know what, you signed this
irrevocable clause, so, you know, we can't do
anything about it now. But at the time of
death, if someone chooses to do something" --
and I'm just saying from a consumer
standpoint, I don't know if that's something
that we feel that we're taking away a right if
someone is not actively or currently on that.
And one of the things that it states is with
the intent to go on it or the desire. And
that's one of the things that we get -- one
of those problems that comes through our board
quite often that we need clarification, would
want to make clarification on. And in
closing, that's if anybody has any comments on
that.

MR. OTTO: Well, I would say that the
way I have interpreted that is just -- and
this sounds weird when you say it this way.
Just because it's irrevocable doesn't mean you
can't cancel the contract. If somebody
cancels an irrevocable contract, we require a
statement from Social Services. This is
barring a Court order. If the Court tells us
to do something, you know, they've got chairs
with guns, you know, so we do what the Court
says. But in the event that there has been
no public assistance received for that person,
I believe they're entitled to all their money back. If -- and it can just be -- and sometimes what happens is somebody has just barely received just a little bit of assistance, but the contract is worth more than that. So, it's a weird situation where I believe that although the language of the statute says irrevocable, that does not negate the fact that it is cancelable, but that money potentially goes to the State of Missouri. So, of the State of Missouri wants it, they get it.

CHAIRMAN: That's what we're seeing; you know what I'm saying? You know what, I don't want to give any money back because I don't want to give it back and then they say I shouldn't give it back, and now I've got to pay it out again or honor it. And that's one of the things that comes across quite often. Well, Don Lakin has something that we want to share with you. I don't know if you all had a chance to get a copy of this.

MR. REINHARD: Yeah. Don is selling this program if anybody wants to buy it.

MR. LAKIN: I don't know whether any
of you have seen this or not, but it's put
out by the Associated Wholesale Groceries.
It's a good way to make money. It costs --
you get $399.60 is what you pay for the
display case and your cost per unit. You sell
it and you make $80 profit. It's called
Personal Funeral Planner. It tells you
exactly how to find out about prices and
funeral homes. It's a disk, but Associated
Groceries are putting them out. Have any of
you seen any in your grocery stores? Well,
it's something new that just come out in the
last 30 days, and they're selling to their
grocery stores. And I've tried to get a copy
of this. I gave it to Ken and he's going to
try to get a copy of it somewhere. They're
charging $89 -- no, the $39.96 for this tape
that tells you how to plan your funeral. You
can either use a funeral director or you don't
have to use a funeral director. But we're
talking about A & G grocery stores putting them
near their drugstores, drug areas, by their
flower shops. My, you know, store man gave it
to me. and I said, "It's a damn good thing
you gave it to me, and you're not going to
put those out." And he said, "Well, we
wouldn't do that," but he says, "There are
people in the grocery business who are going
to buy this thing," and make the $10 on it.
But I think -- are you going to try to find
out -- will you get a tape by next meeting?
CHAIRMAN: I'm sorry; I didn't catch
that last part.

MR. LAKIN: Are you going to try to
get a tape by the next meeting?

CHAIRMAN: Well, our next meeting,
which was my next announcement, is going to be
on August the 28th, and we'll be in County
Club in Lake of the Ozarks there. So, we'll
welcome anybody to come in. I can't guarantee
you'll have that, because unlike a crematory
part, we don't know when it'll come, but we
can see if we can make arrangements to try to
get that.

MR. LAKIN: If any of you see it in
your grocery stores, contact Ken so that he
can get a copy of it. It may cost $39, but
it might be something very interesting to look
at.

CHAIRMAN: We'll pass a hat around
right now to take up a collection, Don. You
start it off. Just so you know, once again,
the next meeting is on August the 28th. I
would like to take this time to once again
remind you that the board will review and take
into consideration everything that was brought
before us before or at our next meeting. I
once again want to thank our division director
for being here with his staff, and also our
staff, as well, for all the hard work they put
in to helping making these possible. And,
most importantly, I want to thank you, our
licensees, and our public and our
investigators for being here today and sharing
your thoughts and concerns which affect not
only our industry, but the consumers of the
state of Missouri. So, at this time, we need
to make a motion to adjourn the meeting. Can
I get a witness? There's one there. Joy?

MS. GERSTEIN: Yes.

MS. SHADEL: I'll second.

CHAIRMAN: Seconded by Marcia.

Everyone in favor? This meeting is adjourned.

Thank you.

(Off the record)
I, Gayle E. Sims, a Professional Reporter and Notary Public, within and for the County of Boone, in the State of Missouri, do hereby certify that the foregoing transcript constitutes a full, true and correct record of said proceedings that were held on July 17, 2006; that said proceedings were recorded by me and afterwards transcribed under my direct supervision.

Given at my office this 14th day of August 2006.

Gayle E. Sims
Notary Public for Boone County

My Commission Expires: 9-14-08