OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors

August 28-29, 2006
Country Club Hotel
HH & Carol Roads
Lake Ozark, Missouri

Monday, August 28, 2006

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Kenneth McGhee, Chairman, at 10:15 a.m. on Monday, August 28, 2006, at the Country Club Hotel, HH & Carol Roads, Lake Ozarks, Missouri.

Board Members Present
Kenneth McGhee, Chairman
James Reinhard, Member
Martin Vernon, Member
Gary Fraker, Member

Board Members Absent
Marcia Shadel, Vice-Chairman
Joy Gerstein, Public Member/Secretary

Staff Present
Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Lori Hayes, Inspector
Kimberly Grinston, Division’s Legal Counsel

Approval of Agenda
Motion was made by James Reinhard and seconded by Martin Vernon to approve the open agenda. Motion carried with James Reinhard, Martin Vernon, and Gary Fraker voting in favor with no votes in opposition. Marcia Shadel was absent for the entire meeting, and Joy Gerstein was absent for this portion of the meeting.

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

Ross Johnson
Robert Johnson
Estate of Ross E. Johnson, Sr. (Disciplinary Hearing)
On Monday, August 28, 2006 at 5:17 p.m., the board held a disciplinary hearing in the case of the State Board of Embalmers and Funeral Directors versus Ross E. Johnson, Jr., Robert J. Johnson, Estate of Ross E. Johnson, Sr., and Johnson Funeral Home. Robert J. Johnson was present for the hearing, but NOT represented by legal counsel. Ross Johnson was NOT present. Representative for the Estate of Ross E. Johnson, Sr. was NOT present. All members of the State Board of Embalmers and Funeral Directors were present with the exception of Marcia Shadel. Sharon Euler, Assistant Attorney General, represented the board during the hearing and Kimberly Grinston, Board’s Legal Counsel, was advisor to the Board on procedural and evidentiary matters. Also present during the hearing were the following:
Jonathan H. Hale, Assistant Attorney General
Rex P. Fennessey, Assistant Attorney General
Don Lakin, Lakin Funeral Home
H.A. Roberson, Roberson Funeral Home Inc.
The disciplinary hearing was adjourned at 6:20 p.m.

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

**Tuesday, August 29, 2006**
The State Board of Embalmers and Funeral Directors returned to open session on Tuesday, August 29, 2006. The open meeting was called to order by Kenneth McGhee, Chairman, at approximately 9:00 a.m., at the Country Club Hotel, HH & Carol Roads, Lake Ozarks, Missouri.

**Board Members Present**
Kenneth McGhee, Chairman
James Reinhard, Member
Martin Vernon, Member
Gary Fraker, Member
Joy Gerstein, Public Member/Secretary

**Board Members Absent**
Marcia Shadel, Vice-Chairman

**Staff Present**
Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Lori Hayes, Inspector
Kimberly Grinston, Division’s Legal Counsel

**Public Present**
Don Otto, MFDA/MFT
Sam M. Rice, Parker Funeral Service
Bill Stalter, Wassberg’s Stalter
Don Lakin, Lakin Funeral Home
Darlene Russell, Capital Reserve Life Insurance
Randy Singer, NPS
Bob Baker, MFDA
HA Roberson, Emb/FD, Bethany, MO
John W. Pautz, Debo Funeral Home, Fulton, MO
Larry Stroud, Adams Funeral Home, Fulton, MO
John McCullouch, APS

**Approval of Minutes**
There were no minutes drafted for approval at this meeting.
Executive Director Report
Becky Dunn, Executive Director, reported that the board has provided the following legislative proposals to the division for consideration:
Per diem increase for board members from $50 to $70
Request for hiring outside legal counsel
Adding the word "crematory" to Funeral Establishment definition.
Changing the language relating to the reverse side of the death certificate to “signing the death certificate”, since there is only one page currently.

Examination Update
The Executive Director had nothing to report at this time.

FY 2006 End of the Year Totals
The Executive Director provided the board with FY2006 End of the Year Totals

<table>
<thead>
<tr>
<th>Active Licensees</th>
<th>FY2004</th>
<th>FY2005</th>
<th>FY2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Embalmers</td>
<td>1156</td>
<td>1185</td>
<td>1099</td>
</tr>
<tr>
<td>Funeral Directors</td>
<td>2473</td>
<td>2532</td>
<td>2331</td>
</tr>
<tr>
<td>Funeral Establishments</td>
<td>708</td>
<td>702</td>
<td>697</td>
</tr>
<tr>
<td>Preneed Providers</td>
<td>643</td>
<td>628</td>
<td>616</td>
</tr>
<tr>
<td>Preneed Sellers</td>
<td>357</td>
<td>350</td>
<td>348</td>
</tr>
<tr>
<td>Limited Funeral Directors</td>
<td>11</td>
<td>39</td>
<td>13</td>
</tr>
<tr>
<td>Retired Funeral Directors</td>
<td>13</td>
<td>(6 of which were dually licensed)</td>
<td></td>
</tr>
<tr>
<td>Retired Embalmers</td>
<td>28</td>
<td>Deceased Funeral Directors (that the Board was informed of)</td>
<td>13</td>
</tr>
<tr>
<td>Deceased Embalmers (that the Board was informed of)</td>
<td>(6 of which were dually licensed)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Application Processing
In FY2005 the board received 224 applications for licensure, and issued 184 new licenses. FY2006 the board received applications for 104 funeral directors, 35 embalmers and 62 establishments.

Examination Administration

<table>
<thead>
<tr>
<th>FY2005</th>
<th>FY2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missouri Law Examinations</td>
<td>144</td>
</tr>
<tr>
<td>State Board Arts Exam</td>
<td>51</td>
</tr>
<tr>
<td>Embalmer Oral Examinations</td>
<td>17</td>
</tr>
</tbody>
</table>

Inspections

<table>
<thead>
<tr>
<th>FY2005</th>
<th>FY2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspections</td>
<td>690</td>
</tr>
<tr>
<td>Violations</td>
<td>127</td>
</tr>
</tbody>
</table>
Most Frequent Violations
Licenses not displayed
Purchase agreements
Embalming Authorizations

Complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>FY2004</th>
<th>FY2005</th>
<th>FY2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases</td>
<td>59</td>
<td>100</td>
<td>55</td>
</tr>
<tr>
<td>Consumer Complaints Received</td>
<td>9</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>Board Has No Jurisdiction</td>
<td>59</td>
<td>68</td>
<td>12</td>
</tr>
<tr>
<td>Alleged Misconduct/Misrepresentation/Dishonesty</td>
<td>12</td>
<td>13</td>
<td>35</td>
</tr>
<tr>
<td>Alleged Unprofessional Conduct</td>
<td>34</td>
<td>68</td>
<td>12</td>
</tr>
<tr>
<td>Alleged Violation of Chapter 436 RSMo</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Unlicensed Practice</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Not timely</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Fee Disputes</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

Complaint Handling

<table>
<thead>
<tr>
<th>Year</th>
<th>FY2004</th>
<th>FY2005</th>
<th>FY2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases referred to the Division for investigation as required in Chapter 436 RSMo (investigations 65, examination of books and records 7, withdrawn 1)</td>
<td>4</td>
<td>3</td>
<td>71</td>
</tr>
<tr>
<td>Cases investigated and referred to Attorney General for action (2 withdrawn, 2 AGO Assurance of Voluntary Compliance)</td>
<td>14</td>
<td>16</td>
<td>13</td>
</tr>
<tr>
<td>Attorney General issued letter of concern</td>
<td>5</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Cases investigated and board issued letters of concern</td>
<td>49</td>
<td>37</td>
<td>3</td>
</tr>
<tr>
<td>Cases investigated where board took no further action or had no jurisdiction</td>
<td>30</td>
<td>36</td>
<td>31</td>
</tr>
<tr>
<td>Cases still pending</td>
<td>30</td>
<td>43</td>
<td>59</td>
</tr>
<tr>
<td>Cases investigated and referred to Consumer Protection AG Office</td>
<td>56</td>
<td>59</td>
<td>9</td>
</tr>
</tbody>
</table>

Discipline

<table>
<thead>
<tr>
<th>Year</th>
<th>FY2004</th>
<th>FY2005</th>
<th>FY2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>License Revocation</td>
<td>1</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Licenses Placed on Probation</td>
<td>27</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>Licenses Suspended</td>
<td>10</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>AGO Court Ordered Suspension</td>
<td>35</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Licenses Suspended per Section 324.010</td>
<td>22</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Public Letter of Censure</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Board Permanent Injunction</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>AGO Court Ordered Permanent Injunction</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

In FY2005, the State Board of Embalmers and Funeral Directors initiated 170 investigations based on inspections, complaints and failure to renew licenses. Based on these investigations, 16 cases were referred to the Office of the Attorney General for the filing of a complaint with the Administrative Hearing Commission, as well as 56 cases were referred to the Consumer Protection Section of the Attorney General’s Office (AGO).
In FY2006, the Board initiated 182 investigations based on inspections, complains and failure to renew licenses. Based on these investigations, 13 cases were referred to the Office of the AG for the filing of a complaint with the Administrative Hearing Commission, as well as 9 cases were referred to the Consumer Protection Section of the AGO.

Preneed Seller Annual Reporting

<table>
<thead>
<tr>
<th>Year</th>
<th>Registered Sellers/Contracts</th>
<th>Total Face Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY2004</td>
<td>23,918</td>
<td>$96,601,403.07</td>
</tr>
<tr>
<td>FY2005</td>
<td>17,423</td>
<td>$77,739,529.31</td>
</tr>
<tr>
<td>FY2006</td>
<td>23,302</td>
<td>$98,057,066.66</td>
</tr>
</tbody>
</table>

Proposed statute and regulation changes

There was discussion relating to statutory proposals as well as to proposed rules and regulations relating to Chapters 436 and 333 RSMo, as well as a summary of the proposals provided by the following:

- Missouri Funeral Directors Association
- William Stalter, Wassberg and Stalter, PC
- Michael Ward
- Roger Richie
- Joshua Slocum, Funeral Consumers Alliance

The board reviewed a letter from Michael L. Ward, funeral director license #004008, requesting fee charges for license renewals be lowered, and be paid on a yearly basis. Based on discussion, a motion was made by Joy Gerstein and seconded by James Reinhard to not pursue this proposal. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

MFDA, Stalter, Richie and Slocum’s proposals will be taken under consideration and discussed in December within the summary of proposals provided in the open agenda.

A motion was made by Joy Gerstein and seconded by Martin Vernon to have Kimberly Grinston, board’s legal counsel, review Chapter 333 RSMo to see what authority the board has relating to enacting continuing education by regulation, if any, and bring back for discussion to the open meeting. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

Discussion and action was taken on the following board regulation proposals. Areas bolded are proposed new language, and those in brackets are proposed deletions.

**Draft of Proposed Amendment to 4 CSR 120-1.040 – Definitions**

The board reviewed the draft of proposed amendment to 4 CSR 120-1.040 – Definitions. Areas bolded are new language and those in brackets will be deleted. Becky Dunn, Executive Director expressed to the board that an emergency proposed amended could be submitted, as this amendment would allow applicants for an embalmer’s license from the
Missouri to become immediately eligible for licensure upon meeting all application and examination requirements and successfully passing the Missouri Funeral Service Arts Examination. Currently, licensed funeral directors who apply for an embalmer license are required to complete both the National Funeral Service Arts Examination and the Missouri Funeral Service Arts Examination. The National Board Arts Examination requires additional preparation time and expense and additional scheduling time and procedures that are beyond the control of the board. The additional time and procedures have created a disincentive for licensure as embalmers among those currently licensed Missouri funeral directors who have previously passed the Missouri Funeral Service Arts Examination and would render it significantly more difficult for a currently licensed Missouri funeral director to obtain an embalmer license in the event of an emergency requiring the disposition of dead human bodies. By amending the rule as proposed, currently licensed Missouri funeral directors who have passed the Missouri Funeral Service Arts examination would be able to qualify for an embalmer’s license without unnecessary delay or the increased additional costs, which will thereby increase the number of currently eligible embalmer applicants. As a result, this emergency amendment is necessary to protect the public health, safety and welfare of Missouri citizens by ensuring the availability of an adequate number of licensed embalmers in this state and by ensuring an efficient process for licensing embalmers for the disposition of dead human bodies in the event of an emergency. A motion was made by James Reinhard and seconded by Martin Vernon to approve the drafted proposed amendment to 4 CSR 120-1.040, as an emergency amendment as submitted, with no changes. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

**New Proposed Amendment**

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

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

(B) In lieu of the National Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the Board may accept successful completion of an examination administered by another state, territory or providence of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts.

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

[(C)][(D) Missouri Law Section.

**Draft of Proposed Amendment to 4 CSR 120-2.010 – Embalmer’s Registration and Apprenticeship**

The board reviewed the draft of proposed amendment to 4 CSR 120-2.010 – Embalmer’s Registration and Apprenticeship. Areas bolded are new language and those in brackets will be deleted. Becky Dunn, Executive Director expressed to the board that an emergency proposed amended could be submitted on this rule as well, as explained in the section of drafted amendment 4 CSR 120-1.040 above. A motion was made by James Reinhard and seconded by Martin Vernon to approve the drafted proposed amendment to 4 CSR 120-2.010, as an emergency amendment as submitted, with no changes. Motion carried with
James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

New Proposed Amendment

(8)  ………………………An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another license within twelve months of the date that the board receives the new application. In lieu of the National Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the Board may accept successful completion of an examination administered by another state, territory or providence of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts.

(12) After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination s/he then may apply for registration as an apprentice embalmer. In lieu of the National Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the Board may accept successful completion of an examination administered by another state, territory or providence of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts.

Draft of Proposed Amendment to 4 CSR 120-2.060 Funeral Directing

The board reviewed the draft of proposed amendment to 4 CSR 120-2.060 Funeral Directing. Areas bolded are new language and those in brackets will be deleted. Several members of the public addressed their concerns and made recommendations to the board.

New Proposed Amendment

(23) Limited License.

(A) A person holding a limited license shall only be allowed to work [only] in a funeral establishment that is licensed [only] as a Function B [funeral] establishment (cremation only). [It shall be lawful for a limited licensee to engage in any act of funeral directing at a function B funeral establishment including transportation of dead human bodies to and from the funeral establishment.] A limited funeral director shall only engage in the activities of funeral directing authorized for a function B funeral establishment, including transportation of dead human bodies to and from the funeral establishment.

A motion was made by James Reinhard and seconded by Joy Gerstein to delete “including transportation of dead human bodies to and from the funeral establishment” from the last sentence of drafted proposed amendment to 4 CSR 120-2.060(A), as submitted. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.
Draft of Proposed Amendment to 4 CSR 120-2.070(2) Funeral Establishments

The board reviewed the draft of proposed amendment to 4 CSR 120-2.070(2) Funeral Establishment. Areas bolded are new language and those in brackets will be deleted. Several members of the public addressed their concerns and made recommendations to the board. A motion was made by James Reinhard and seconded by Joy Gerstein to approve the drafted proposed amendment to 4 CSR 120-2.070(2), as submitted, with no changes. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

New Proposed Amendment

(2) There shall be the following license classifications:

(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a function A establishment shall be prohibited from the care and preparation of dead human bodies other than by embalming, and shall also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or the sale of funeral merchandise.

(B) Function B establishments shall have authority to cremate dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment must have a functioning cremation chamber except as otherwise provided by Chapter 333 RSMo, and the rules of the board. An establishment licensed only as a function B establishment shall be prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or the sale of funeral merchandise.

Draft of Proposed Amendment to 4 CSR 120-2.070(25) Funeral Establishments

The board reviewed the draft of proposed amendment to 4 CSR 120-2.070(25) Funeral Establishment. Areas bolded are new language and those in brackets will be deleted. Several members of the public addressed their concerns and made recommendations to the board.

4 CSR 120-2.070(25) Funeral Establishment

New Proposed Amendment

(25) Each Function B establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 4 CSR 120-2.071(1)(D), and maintain on the premises in the cremation area a cremation log. A function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within 90 days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances, and the cremation chamber could not be repaired, documentation of such shall be provided to the board review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations; Missouri Department of Natural Resources, statues, rules and regulations; and all other applicable federal, city, county, and municipal statutes, rules and regulations.
(A) If a function B has only one cremation chamber, and that chamber is not functioning, notification from the establishment shall be made to the board within 5 days after the cremation chamber stops functioning.

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

A motion was made by James Reinhard and seconded by Joy Gerstein to change drafted proposed amendment 4 CSR 120-2.070 for a non-functioning cremation chamber to be completely restored from [90] to 120 days; and change section (A) of the drafted proposed amendment, on notification to the board after the cremation chamber stops functioning, be changed to 10 business days. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

Draft of Proposed Amendment to 4 CSR 120-2.070(29) Funeral Establishments
The board reviewed the draft of proposed amendment to 4 CSR 120-2.070(29) Funeral Establishment. The draft should read 4 CSR 120-2.070(30) since there is already a section (29). Areas bolded are new language and those in brackets will be deleted. Several members of the public addressed their concerns and made recommendations to the board. A motion was made by James Reinhard and seconded by Joy Gerstein to approve the drafted proposed amendment to 4 CSR 120-2.070(30), as submitted, with no changes. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

New Proposed Amendment
(30) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the State of Missouri. Violation of this rule shall be deemed grounds for discipline pursuant to 333.121.2(5), RSMo.

Draft of Proposed Amendment to 4 CSR 120-2.071(1), (3) & (5) – Funeral Establishments Containing a Crematory Area
The board reviewed the draft of proposed amendment to 4 CSR 120-2.071 Funeral Establishments Containing a Crematory Area. Areas bolded are new language and those in brackets will be deleted. Several members of the public addressed their concerns and made recommendations to the board. A motion was made by James Reinhard and seconded by Joy Gerstein to approve the drafted proposed amendment to 4 CSR 120-2.071, as submitted, with no changes. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

New Proposed Amendment:
(1) Definitions.

(D) Cremation Chamber - the total functioning mechanical unit for the actual cremation process.
(3) ……………..
(B) …………….

6. The name of the Missouri licensed funeral director other than a limited license funeral director with whom the arrangements were made.

(5) All records required to be maintained by this rule shall be maintained on the premises of the Missouri licensed funeral establishment for [a minimum of the current calendar year and the proceeding calendar year] two years from the date the record was created.

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

The board reviewed the draft of proposed amendment to 4 CSR 120-2.071 (9) Funeral Establishments Containing a Crematory Area. Areas bolded are new language and those in brackets will be deleted. Several members of the public addressed their concerns and made recommendations to the board.

New Proposed Amendment

(9) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and protect the surrounding structure. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within 90 days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances, and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statues, rules and regulations, and all other applicable federal, city, county, and municipal statutes, rules and regulations, and all other applicable federal, city, county, and municipal statutes, rules and regulations.

(A) If a function B has only one cremation chamber and that chamber is not functioning, notification from the establishment shall be made to the board within 5 days after the cremation chamber stops functioning.

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

A motion was made by James Reinhard and seconded by Joy Gerstein to change drafted proposed amendment 4 CSR 120-2.071 for a non-functioning cremation chamber to be completely restored from [90] to 120 days; and change section (A) of the drafted proposed amendment, on notification to the board after the cremation chamber stops functioning, be changed to 10 business days. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

July 21, 2006 Mail Ballot - The Executive Director summarized the suggestions presented by the public participants at the July 18, 2006 board meeting. Members of the board were to
select those suggestions for which they would like the Office to draft proposed language to be submitted to the Board for further consideration. This mail ballot was sent out to board membership, as well as all open membership that has requested open meeting documents. The board voted to hold for discussion at the August 2006 face to face board meeting therefore the Executive Director placed this on today’s agenda.

The board reviewed the summarized suggestions, and members of the public addressed their concerns and made recommendations to the board.

**CHAPTER 436**

1. Amend 436 to require that funeral directors/establishment only allow persons licensed as funeral directors, limited funeral directors or insurance agents to sell preneed for the funeral director/establishment.

2. Amend 436 to increase the amount of preneed funds that have to be placed into trust. [If so, what amount? MFT suggested 85%, Bill Stalter suggested 90%].

3. Amend 436 to require that preneed funds be deposited in the trust within a designated period of time. [If so, how long? The suggestion was 24 hours].

4. Amend 436 to limit the seller’s commission to the first 10% of the purchaser payments, with all income accrued.

5. In lieu of #4, require that the trust be allowed to accrue income until the end of the year when 50% of the net income that year may be distributed.

6. Mandate a biennial inspection/examination of preneed sales by funeral homes and registered sellers.

7. Require more detailed reporting of preneed sales.

8. Authorize the Board or the Division to promulgate rules under 436.

9. If more authority is not given to the Board or the Division, amend 436 to give preneed regulation to a separate entity within the Department of Insurance, Financial Institutions and Professional Registration.

10. **CHAPTER 333**

1. Define “the business of” funeral directing.

2. Require continuing education for funeral directors/embalmers. [If so, how many hours?]

3. Amend 333 language that requires a signature on the “back” of a death certificate to reflect the current language.

4. Consolidate all record keeping requirements for funeral directors and embalmers into one statute or regulation.

5. Require funeral homes to perform periodic “due diligence” inspections of any third party crematory that is used on a regular basis (i.e.- 3 cremations within a calendar year).

6. Require funeral directors to collect remains within a designated time period after cremation is complete.

7. Give funeral homes authority to scatter remains when families fail to take possession after a specified time. Also require funeral homes adopt a “scattering policy” and a more detailed authorization form.
8. Require a functioning crematory as a condition for licensure. If a retort is broken for more than a designated number of days [Chair recommendation: 90 days], amend language to provide Board may immediately suspend the facility’s license.

9. Change the definition of funeral establishment to clearly include crematories.

10. Allow apprentices to serve in a licensed funeral establishment in any state without the current requirement that the other state have licensing standards for funeral directors that are equal or more stringent than Missouri’s licensing standards.

11. Require the Board to approve an application within 30 days. An applicant may request 2 thirty-day extensions.

REGULATION CHANGES

1. REG: Require that funeral homes have partitions between any living quarters and the funeral establishment areas. Possibly grandfather in some licensees.

2. Require a functioning crematory as a condition for licensure. Require retort cannot be broken for more than a designated number of days [chair recommendation: 90 days].

3. Allow an embalmer to take either the national arts exam or the Missouri arts exam.

Darlene Reinkemeyer, Capitol Reserve Life Insurance, asked if the board had researched random audits within the authority of Chapter 436 RSMo., due to discussions that took place at the July 18, 2006 board meeting. Becky Dunn, Executive Director, stated that she had asked the Division to research and provide a response to the board. David Broeker, David Barrett and Sandy Sebastian reviewed the criteria the board provided, and based on the research, the Division feels it would be appropriate to process audits/examinations of books and records requested by the board. The board would utilize the IT/or MIS Section of the Division to have a random pull from the licensing system. Members from the public requested that this information be provided to the board in writing and Becky Dunn, Executive Director stated she would request such.

Don Otto, Missouri Funeral Trust, brought to the board's attention that under the summarized suggestions listed above under Chapter 436 item #2, MFT's suggestion to increase the amount of preneed funds that have to be placed into trust is 95% rather than the 85% as indicated.

A motion was made by Martin Vernon and seconded by Joy Gerstein that all proposals for Chapter 436 would be held until further research was conducted on any ramifications that could occur by opening this chapter. Motion carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting.

It was determined that some of these suggestions have already been addressed and others previously approved by the board. A motion was made by James Reinhard and seconded by Joy Gerstein to remove from the summarized suggestions listed below, the issues that have been previously addressed and approved by the board, have Chairman McGhee review and select the important issues and bring back to board for further review. Motion carried with
James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent from the meeting. Legal Counsel, Executive Director and Chairman will review these proposals, draft language and provide at the December Board meeting. The public can provide proposed language with submission by November 1, 2006 to the Board office.

New Release
The new release relative to the Jane Spencer Turner’s guilty pleads to seven counts of misusing preneed funds, was provided to members of the board for informational purposes only.

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

Future Meeting Dates
The next meeting of board has been scheduled for December 4-5, 2006 at the InterContinental Kansas City at the Plaza (formerly The Fairmont), Kansas City, Missouri.

Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business
Per the request of Ivra Cross, Missouri Department of Health and Senior Services, the board and members of the public were provided a memorandum sent to all funeral directors and all coroners/medical examiners reminding them that the previous version of the death certificate with the alcohol-related question and coding strip would be accepted until the end of the year. Death certificates completed on the previous version will be returned for replacements. The most recent death certificate has been placed on a secure internet site at http://www.dhss.mo.gov/IVrecords/.

The International Conference of Funeral Service Examining Boards has advised the board that Pearson-Vue, a new testing company, with testing centers located all over the world, will replace the current testing company, Applied Measurements Professionals, (AMP) beginning January 2007. While AMP has provided excellent services and been indispensable in helping upgrade exams and implement computer-based testing, Pearson-Vue has the resources to move to the next level. Beginning January 1, 2007, all National Board Exams will be given at Pearson Professional Centers. Both companies are working hard to make the transition as smooth as possible.

William Stalter, Wassberg and Stalter, PC, addressed the board with concerns relative to the scope of practice of embalming relating to Chapter 333 RSMo. What constitutes this practice by the board as he has clients that want a clearer definition of this process in Missouri? Discussion was held by the open, as well as the Board membership.
Closed Meeting
Motion was made by James Reinhard and seconded by Gary Fraker to move into closed
session and that all records and votes, to the extent permitted by law, pertaining to and/or
resulting from the closed meeting be closed pursuant to Section 610.021 Subsection (14) and
620.010.14 Subsection (7) RSMo for discussing educational transcripts and/or test scores
and/or complaints and/or audits and/or investigative reports and/or other information
pertaining to the licensee or applicant for licensure; Section 610.021 Subsection (1) RSMo for
discussing general legal actions, causes of action or litigation and any confidential or
privileged communications between this agency and its attorney; Section 610.021 Subsection
(1) RSMo and 620.010.14 Subsection (8) for deliberation on discipline; Section 610.021
Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this
agency; Section 610.021 Subsection (13) RSMo for making performance ratings pertaining to
individual employees; Section 610.021 Subsection (7) RSMo for reviewing testing and
examination materials; Section 610.021 Subsection (14) and Section 620.010.14 Subsection
(5) RSMo for proceedings required pursuant to a disciplinary order concerning medical,
psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of
specific licensees; and Subsection of 610.021 RSMo for the purpose of reviewing and
approving the closed minutes of previous meetings. Motion carried with James Reinhard,
Gary Fraker, and Joy Gerstein voting in favor with no votes in opposition. Martin Vernon was
absent for this portion of the meeting. Marcia Shadel was absent from the meeting.

Adjournment
A motion was made by Martin Vernon and seconded by Joy Gerstein to adjourn. Motion
carried with James Reinhard, Martin Vernon, Gary Fraker, and Joy Gerstein voting in favor
with no votes in opposition. Marcia Shadel was absent from the meeting. The meeting
adjourned at 5:12 p.m. on Tuesday, August 29, 2006.

Executive Director: ________________________________

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

August 28-29, 2006
Country Club Hotel
HH & Carol Roads
Lake Ozark, Missouri

The Missouri State Board of Embalmers and Funeral Directors will be meeting on August 28, 2006 beginning at 10:00 a.m. and on August 29, 2006 beginning at 9:00 a.m. Notification of special needs as addressed by the American with Disabilities Act should be forwarded to the Missouri State Board of Embalmers and Funeral Directors, P.O. Box 423, 3605 Missouri Boulevard, Jefferson City, Missouri 65102 or by calling (573) 751-0813 to ensure available accommodations. The text telephone for the hearing impaired is (800) 735-2966.

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

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

Please see attached tentative agenda for this meeting.

Attachment

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

August 28-29, 2006
Country Club Hotel
HH & Carol Roads
Lake Ozark, Missouri

Monday, August 28, 2006

10:00 a.m.
Call to Order

Roll Call

1. Approval of Agenda

2. 4:00 p.m. Ross Johnson
    Robert Johnson
    Estate of Ross E. Johnson, Sr. (Disciplinary Hearing)

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

Tuesday, August 29, 2006

9:00 a.m. The Board will move into Open Session

3. Approval of Minutes

4. Executive Director Report

5. Examination Update
6. FY 2006 End of the Year Totals
7. Proposed statute and regulation changes
8. New Release
9. Joshua Slocum, Funeral Consumer Alliance
10. Upcoming Conferences
11. Future Meeting Dates
12. Open Discussion – Dialogue with General Public Attending Open Session
    Continuation and/or Completion of any Unfinished Open Session Business

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

Adjournment