OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors

August 27-29, 2007
Country Club Hotel and Spa
HH & Carol Roads
Lake Ozark, Missouri

Monday, August 27, 2007 – 12:00 p.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to
order by Kenneth McGhee, Chairman, at 12:20 p.m. on Monday, August 27, 2007, at the
Country Club Hotel and Spa, HH & Carol Roads, Lake Ozark, Missouri.

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

Staff Present
Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Kimberly Grinston, Board's Legal Counsel
Kevin Lager, Central Investigative Unit

Closed Meeting
Motion was made by Gary Fraker 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 close of minutes of previous meetings. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

Wednesday, August 29, 2007 – 9:00 a.m.

The State Board of Embalmers and Funeral Directors returned to open session on Wednesday, August 29, 2007. The open meeting was called to order by Kenneth McGhee, Chairman, at approximately 9:00 a.m., at the Country Club Hotel and Spa, HH & Carol Roads, Lake Ozark, Missouri.

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

Board Member Absent
Gary Fraker, Member

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

Public Present
Don Otto, MFDEA/MFT
Larry Stroud, MFDEA
Randy Singer, NPS
Darlene Russell
Don Lakin
William Stuart
Sara Mullen, Capital Reserve Insurance-FDT
Bill Bennett, MFDEA

Approval of Agenda
Motion was made by James Reinhard and seconded by Marcia Shadel to approve the open agenda. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting.
Approval of Minutes
December 3-5, 2006 Open Meeting Minutes
Motion was made by Joy Gerstein and seconded by Marcia Shadel to approve the December 3-5, 2006 Open Meeting Minutes as submitted. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting.

Executive Director's Report
Becky Dunn reported on the FY2007 Financial Statement as of June 30, 2007

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<th>Year-To-Date</th>
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FY 2007 OA Cost Allocation

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Division Cost:

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FY2007 Total Cost: $4,478.61

E-Government – Emails, Electronic Transfer for Per Diem
State Government is focusing on e-government. Division Director Broeker is requesting email addresses for all members of the board, if available.

End of the Year Report
The board was provided an End of the Year Report for the State Board of Embalmers and Funeral Directors. This information will be updated and reported to the Board's Webpage.

ACTIVE LICENSEES 2004 2005 2006 2007
Embalmers 1156 1185 1099 1,147
Funeral Directors 2473 2534 2331 2,431
Limited Funeral Directors 11 12
Funeral Establishments 708 702 697 695
Preneed Providers 643 628 616 612
Preneed Sellers 357 350 348 348
Retired Embalmers 20 0 13 0
Legal Counsel Report (Kim Grinston)
Kimberly Grinston had nothing to report at this time.

Rules and Regulations

- Pending

Drafted Proposed Amendments 20 CSR 2120-2.060 and 20 CSR 2120-2.070

The board was provided the following proposed amendment drafts to 20 CSR 2120-2.060 and 20 CSR 2120-2.070 previously reviewed and approved by the Board and Division. Areas bolded are new language and those in brackets will be deleted.

DRAFTED PROPOSED AMENDMENT

20 CSR 2120-2.060 Funeral Directing.
(1) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo shall provide the following to the board:
   (A) Proof of being at least eighteen (18) years of age;
   (B) Proof of possession of a high school diploma or equivalent;
   (C) Evidence of being a person of good moral character;
   (D) Proof of satisfactory completion of each section of the funeral director’s examination;
   (E) Affidavit of completion of a twelve (12) consecutive month apprenticeship; or official transcript and documentation indicating [he/she] has completed all courses required for graduation from an institute of mortuary science accredited by the American Board of Funeral Service Education or any successor organization recognized by the United States Department for Funeral Service Education; or has successfully completed a course in funeral directing offered by a college accredited by a recognized national, regional or state accrediting body and approved by the State Board of Embalmers and Funeral Directors; or proof of being a Missouri licensed embalmer;
   (F) Completed application form provided by the board;
   (G) Proof of successful completion of the National Board Funeral Service Arts examination, if applicable;
   (H) Payment of all applicable fees;
   (I) Satisfactory criminal history background check as provided to the board by the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol; and
   (J) Any other information the board may require.

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application [and the administration] fees for the Missouri Law examination and Missouri Funeral Service Arts examination] directly to the board. [The scheduling and payment of the examinations will be made through the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.] If the applicant has successfully completed the National Board Funeral Service Arts
examination, no Missouri Funeral Service Arts examination is required,[, and no Missouri Funeral Service Arts examination fee may be applicable.] Application forms can be obtained from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

(3) Effective [June 1] July 30, 2004 the funeral director examination developed [administered] by the [board] International Conference of Funeral Service Examining Boards, Inc., or designee of the board, shall consist of the Missouri Law section and the Missouri Funeral Service Arts section [developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board]. In lieu of the Missouri Funeral Service Arts examination, successful completion of the National Board Funeral Service Arts examination results will be accepted.

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

(5) Upon registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.

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

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

(8) Successful completion of a funeral director apprenticeship shall consist of the following:
   A. Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment; and
   B. Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that [s/he] has arranged for and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director.

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

(10) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each section. If the applicant fails a section of the examination, the applicant shall be permitted to retake that section of the examination. [upon application and payment of the administration fee
to the board. Scheduling and payment of the examination fee will be made through the International Funeral Service Examining Boards, Inc., or designee of the board.)

(11) All notifications for the funeral director's examination [must] shall be in writing and received by the board at least forty-five (45) days prior to the date [of the next regularly scheduled] the candidate plans to sit for the examination [and must be accompanied by all applicable fees].

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

(13) An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another license within twelve (12) months of the date that the board receives the new application.

(14) [It shall be considered misconduct in the practice of funeral directing for a] A Missouri licensed funeral director shall not [to] permit any unlicensed person to engage in, or take charge of, the activities for which a license is required by law.

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

(16) A Missouri licensed funeral director shall be present and personally [must] shall supervise any disinterment, interment, entombment, or cremation as defined in [4 CSR 120-1.040] 20 CSR 2120-1.040 conducted by a Missouri licensed funeral establishment. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing. Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been completed, the Missouri licensed funeral director is not required to stay with the body[, but n/N]othing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities [s/he] he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

(17) A licensed funeral establishment or funeral director that makes arrangements for [A] an unlicensed person [may] to transport dead human bodies [from the place of death to another location] within the State of Missouri, or [may transport dead human bodies] out of this state, [if these services are performed under the direction of a Missouri licensed funeral establishment] is responsible for the conduct of the unlicensed person.

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

[(18)] (19) A [No person other than a] Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person [be allowed] to make the following at-need arrangements with the person having the right to control the incidents of disposition:
(A) Removal of a dead human body, arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services; and

(B) Embalming, cremation, care, preparation, shipment or transportation of a dead human body; and

(C) Nothing in this subsection shall be construed to apply to persons exempt from Chapter 333, RSMo.

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

[(20)] (21) Whenever an unlicensed person makes other than at-need funeral arrangements on behalf of a Missouri licensed funeral director or Missouri licensed funeral establishment, the unlicensed person shall be under the supervision and control of a Missouri licensed funeral director at all times.

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

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

[(23)] (24) 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.

(B) Every person desiring a limited license shall provide the following to the board:

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

(C) Every limited licensee shall provide the board with the name, location and license number of each Function B funeral establishment where she he/she is employed.

(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.

(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. [The limited licensee shall not be required to retake the Missouri Law examination.]

The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.
(24) (25) All certificates, registrations, and licenses, or duplicate copies thereof, issued by the State Board of Embalmers and Funeral Directors shall be displayed at all times in a conspicuous location accessible to the public in each office(s) or place(s) of business where they work, for inspection by any duly authorized agent of the board.

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

(26) (27) A Missouri licensed funeral director may engage in the practice of funeral directing in the state of Missouri only in Missouri licensed funeral establishments. Each Missouri licensed funeral director shall inform the board in writing, in a timely manner, of each Missouri licensed funeral establishment name(s), location(s) and license number(s) where the Missouri licensed funeral director is engaged in funeral directing.

(27) (28) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, [for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude,] whether or not sentence was imposed. This information [must] shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(29) Person Deemed to be Engaged in the Practice of Funeral Directing.

(A) No person shall be deemed by the board to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges or carries out the burial of the dead human body of a member of one's own family or next of kin as provided by section 194.119, RSMo., provided that the activity is not conducted as a business or for business purposes.

(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges or carries out the burial of a dead human body pursuant to the religious beliefs, tenets or practices of a religious group, sect or organization, provided that the activity is not conducted as a business or for business purposes.

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

**DRAFTED**

**PROPOSED AMENDMENT**

20 CSR 2120-2.070 Funeral Establishments.

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

(2) There shall be the following license classifications:

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

(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] shall have [an operating] 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 is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise.

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

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

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

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

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and [must] shall be operated under the supervision and ownership of a Function C establishment.

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

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address. If another business is in the same building as the Missouri licensed funeral establishment, it must be separated by walls from ceiling to floor, with a separate entrance.

(1) This separation of another business shall not apply to establishments containing multiple businesses prior to May 1, 2008.

(2) Any establishment containing more than one business prior to May 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation being owner of the establishment. This subsection (2) shall not apply if only the owners of the stock of a corporation changes.
(5) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

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

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by [4 CSR 120-1.040] 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes for a period of more than thirty (30) days, the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within thirty (30) days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

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

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

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

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change. However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license [must] shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

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

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

(12) Only one (1) license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule. If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule.

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

(A) All signs, stationery and any advertising in newspapers, publications or otherwise, [must] shall include the name(s) of the Missouri licensed funeral establishment registered with the board. Advertisements that do not comply with this section shall be deemed misleading for the purposes of section 333.121, RSMo. 

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

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be kept free and clean of litter, dirt, debris and clutter or other objects or conditions which present a potential or actual hazard to the health, safety or welfare of the public.

(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety or welfare of the public. A Missouri licensed funeral establishment shall comply with all applicable county, city, and municipal codes, permits and licenses, as well as all Missouri statutes, rules and regulations.

(16) Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in [4 CSR 120-2.090] 20 CSR 2120-2.090.

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

(18) Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in [4 CSR 120-2.071] 20 CSR 2120-2.071.

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

(20) Each Function C or Function D establishment shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment [must] shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands and music-producing equipment.
(21) According to section 333.121.2(17), RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embaled. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40\(^\circ\) F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

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

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

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

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

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

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

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

(A) When authorization to embalm is given in writing—
1. The name and signature of the person who is authorizing embalming;
2. The relationship of that person to the deceased;
3. The time and date authorization to embalm was given; and
4. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

(B) Authorization to embalm \textit{must} be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document:
1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;
2. The relationship of that person to the deceased;
3. The name of the person who is verbally communicating authorization to embalm and that person’s relationship to the person who is actually authorizing embalming;
4. The time and date authorization to embalm was given; and
5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

(23) Each Funeral C Funeral establishment shall maintain on the Missouri premises the following documents:

(A) General price list;
(B) Preceed contracts which have been cancelled or fulfilled;
(C) Purchase agreements; and
(D) Authorizations to embalm or cremate.
(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room and [embalming log] register.

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

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

(B) A function B establishment that has a 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.

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

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

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

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

(27) Each funeral establishment shall maintain a register log, as defined by 20 CSR 2120-1.040(9). The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room, the log shall be kept on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall contain the information required by 20 CSR 2120-1.040(9).
[(27)] (28) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director’s presence may not be required.

(29) 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.

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

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

- New

NEW 20 CSR 120-2.070
Additions to Funeral Establishments
(2)
- Function E establishments shall only have authority to make funeral arrangements for the disposition of dead human bodies.

This would be inserted after (20)
- Each Function E establishment shall contain an area for care and preparation of dead human bodies, a restroom, available drinking water, and shall have on-site equipment necessary for making arrangements for funeral services including tables or desks and chairs and file cabinets for the confidential storage for funeral records.

This would be a new number after (23)
- Each Function E funeral establishment shall maintain on the Missouri premises the following documents:
  o General Price List;
  o Preneed contracts which have been cancelled or fulfilled;
  o Purchase agreements; and
  o Authorizations to embalm or cremate.

Motion was made by Marcia Shadel and seconded by Joy Gerstein 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 (1) RSMo for discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting.

As a result of legal discussion in closed session, a motion was made by Marcia Shadel and seconded by James Reinhard to conduct a special meeting relating to proposed rules, prior
to December 2007 board meeting. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting.

**Division Legislative Overview**

**2007 Legislative Session** – The board reviewed an overview of Division’s legislative package passed by the Missouri General Assembly.

**Legislative Action taken by Governor Matt Blunt – 94th General Assembly – First Regular Session 2007**
The board was provided a list of Legislative Actions taken by Governor Matt Blunt – 94th General Assembly – First Regular Session 2007. This was provided for informational purposes.

**FY 2008 Legislative Proposals**
Becky Dunn, Executive Director, reported that the board has provided the following legislative proposals to the division for consideration:
Request for hiring outside legal counsel
Per diem increase for board members from $50 to $70
Clarify the Definition of embalming

**Computerized Testing/October 1, 2007**
The State Board of Embalmers and Funeral Directors has been working on the implementation process for computerized examinations. This process will become effective with the board as of October 1, 2007. The paper pencil examinations will be conducted September 19, 2007 at the board office, after that date, the paper/pencil examinations will cease. Computerized testing will provide applicants four Missouri testing center locations at the Pearson Professional Center in Columbia, Kansas City, Springfield and St. Louis, as well as various other locations in neighboring states.

**Entity/DBA Compliance Update**
At the direction of the board, board staff verified all funeral establishments registered with the board against their registered name at the Secretary of State’s Office to verify if the funeral establishments were properly registered. February/March 2007, the board wrote letters to all funeral establishments with possible Entity Name/DBA Name discrepancies. Licensees were provided every opportunity to explain and rectify the discrepancies. Depending upon the circumstances, these discrepancies may have only needed a phone call, others required an Amended Application and $25.00 fee, and if the funeral establishment changed the entity without informing the board of such change were required to submit a new application and $300.00 fee. The board has approximately 25 funeral establishments that are still not compliant.
**Provider/Seller Annual Registrations**
Lori Hayes advised that preneed provider and seller annual reporting notices were mailed out on August 1st.
The board discussed concerns relating to preneed seller registrations in need of trust for registration, versus using insurance or joint accounts. The board will take this matter under review and consideration and tabled for further discussion.

**Division Board Member Orientation – September 25-26, 2007**
The Division of Professional Registration will be hosting a Board Member Orientation & Update, September 25-26, 2007 at the Capitol Plaza Hotel & Convention Center, Jefferson City. All members of the board are encouraged to attend the Orientation.

**Upcoming Conferences:**
CLEAR – The Council on Licensure, Enforcement and Regulation Annual Conference, will be held September 6-8, 2007, in Atlanta, Georgia.
NFDA – The National Funeral Directors Association's 2007 Annual Convention, will be held October 7-9, 2007, in Las Vegas, Nevada.
If members of the board are interested in attending the annual meeting, contact the board office as soon as possible.

**Future Meeting Dates**
A board meeting has been scheduled for December 3-5, 2007 at the InterContinental Kansas City at the Plaza (Fairmont), Kansas City, Missouri.
The Executive Director was directed to schedule a special meeting prior to December 2007, for the purpose of discussing proposed/amended rules.

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

**Scam relating to funeral directing**
The Board has received several reports that Missouri funeral homes have been contacted via email and telephone communication for assistance in bringing remains back to a mortuary in the United States/Missouri from a foreign country. The request asks for assistance in the arrangements and provides direction for a money transaction that appears to be questionable. The board would like to caution all licensees to appropriately verify any such request for assistance and to be careful before disclosing financial information or accepting unknown money transfers. This matter has been reported to the Missouri Attorney General's Office and is currently being monitored.

**MFDEA Law Exam Review – Don Otto**
Each month, MFDEA provides a review class designed to help prepare prospective funeral directors for the Missouri Funeral Service Law Exam Test. This Law Test covers funeral directing laws, licensing, embalming, preneed sales, OSHA requirements and FTC rules.
October 2007 – Kansas City
November 2007 – St. Louis
December 2007 – Jefferson City
Closed Meeting
Motion was made by Joy Gerstein and seconded by Marcia Shadel 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 open minutes of previous meetings. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting.

Adjournment
A motion was made by Joy Gerstein and seconded by James Reinhard to adjourn. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon and Joy Gerstein voting in favor with no votes in opposition. Gary Fraker was absent for this portion of the meeting. The meeting adjourned at 12:12 p.m. on Wednesday, August 29, 2007.

Executive Director: [Signature]

Approved by the Board on: 04/17/2008