AMENDED OPEN AGENDA
Missouri State Board of Embalmers
and Funeral Directors

April 7-9, 2008
Kenneth E. Cowan Civic Center
500 E. Elm Street
Lebanon, Missouri

Monday, April 7, 2008 – 10:00 a.m.

Call to Order
Roll Call

1. Approval of Agenda

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 open minutes of previous meetings.

Wednesday, April 9, 2008 – 9:00 a.m.

Call to Order
Roll Call

2. Approval of Minutes
   • August 27-29, 2007 Open Meeting Minutes
   • September 27, 2007 Open Meeting Minutes
   • October 18, 2007 Open Mail Ballot Meeting Minutes
   • November 14, 2007 Open Mail Ballot Meeting Minutes
   • December 3-5, 2007 Open Meeting Minutes
3. Executive Director's Report

4. Legal Counsel Update

5. Department of Health/Electronic Filing of Death Certificates – Ivra Cross and DHSS General Counsel, Avids Petersons.

6. Missouri Arts Examination – Don Otto, MFDEA Executive Director (per request)

7. Pending Rules
   - 20 CSR 2120-2.060 Funeral Director – Effective Date 5/30/08
   - 20 CSR 2120-2.070 Funeral Establishments – Effective Date 5/30/08
   Comment Letter on Pending Rule (Brian Gers)

8. New Language to be considered
   - Additions to Funeral Establishments - Proposed Rule 20-CSR 2120-2.070
   - Proposed Rule 20-CSR 2120-2.070(9) Funeral Establishments
   - Pet Crematories - Proposed Rule 20-CSR 2120-2.070 Funeral Establishments

9. Legislation

10. Chapter 436 RSMo./Discussion

11. Provider and Seller Registration Report

12. Future Board Meetings

13. Election of Officers

14. 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 open minutes of previous meetings.

Adjournment
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 closed minutes of previous meetings. Motion carried with Marcia Shadel, James Reinhard, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition.

**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, Board'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>
<th>Projected</th>
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<td>Revenue</td>
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FY 2007 OA Cost Allocation

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<th>Auditor Expenditures</th>
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Division Cost:

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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

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<tr>
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<th>2004</th>
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<td>Funeral Establishments</td>
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Open Meeting Minutes
August 27-29, 2007
Page 3
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**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 [she/he] is a graduate of 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] fee[s 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] he/she 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 120-1.040 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]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 responsibility [she] 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.

(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:

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(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.

[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.

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

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


(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/they] 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 333.081.1, 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 of 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

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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 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 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.

(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 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 ownership 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 establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension [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 so 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 arrangements, conference 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 embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40°F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

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

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

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

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

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

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

(22) 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; and

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

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

(A) General price list;

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

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.
(24) Each funeral establishment licensed for embalming shall maintain on the premises in the preparation room and [embalming log] register.

(25) Each funeral establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 20 CSR 2120-2.071(1)(D), and maintain on the premises in the cremation area a cremation log. A funeral 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, statutes, rules and regulations; and all other applicable federal, city, county, and municipal statutes, rules and regulations.

(A) If a funeral 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 funeral 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).
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.

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.

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.

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

Function E establishments shall only have authority to make funeral arrangements for the disposition of dead human bodies.

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.

Each Function E funeral establishment shall maintain the Missouri premises the following documents:
- General Price List;
- Preneed contracts which have been cancelled or fulfilled;
- Purchase agreements; and
- 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 (3) 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: __________________________

Approved by the Board on: __________________________
OPEN MEETING MINUTES  
Missouri State Board of Embalmers and Funeral Directors  

September 27, 2007  
Missouri Council of School Administrators Education Center  
3550 Amazonas Drive  
Jefferson City, Missouri  

Thursday, September 27, 2007 – 8:00 a.m.  
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Kenneth McGhee, Chairman, at 8:03 a.m. on Thursday, September 27, 2007, at the Missouri Council of School Administrators Education Center, 3550 Amazonas Drive, Jefferson City, Missouri.  

Board Members Present  
Kenneth McGhee, Chairman  
Gary Fraker, Member  
Joy Gerstein, Public Member  

Board Members Absent  
Marcia Shadel, Vice-Chairman  
James Reinhard, Secretary  
Martin Vernon, Member  

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

Motion was made by Gary Fraker and seconded by Joy Gerstein to move into closed session 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 Kenneth McGhee, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel, James Reinhard and Martin Vernon were absent for this portion of the meeting.  

The State Board of Embalmers and Funeral Directors returned to open session with Kenneth McGhee, Chairman, taking roll call at approximately 9:00 a.m.  

Board Members Present  
Kenneth McGhee, Chairman  
Marcia Shadel, Vice-Chairman – via conference call  
Martin Vernon, Member
Gary Fraker, Member
Joy Gerstein, Public Member

Board Member Absent
James Reinhard, Secretary

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

Public Present
Kelli Carlson, Capital Reserve
Kassie Hayes, Capital Reserve
Jennifer Jernigan, Capital Reserve
John McCullough, APS
Conita Follis, Follis & Sons Funeral Home
Chris Follis, Follis & Sons Funeral Home
Marty Sargent
Connie Clarkston, Division of Professional Registration
Sharon McGhee, Archway Memorial Chapel
Darlene Russell, self/licensee
State Representative Tim Meadows, 101st District of State of Missouri
DJ Gross, Duncan Funeral Home
Larry Stroud, Adams Funeral Home
Don Otto, MFDEA/MFT
Bill Bennett, MFDEA President

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

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

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 [she/his] is a graduate of 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] fee[s 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] he/she 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.

Any funeral director that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director, shall personally supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.
(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. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.

(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been complete[d], the Missouri licensed funeral director is not required to stay with the body[.]

(B), but nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities [s/he] has under his/her contract with the person(s) having the right to control the incidents of burial.

(17) Any licensed funeral establishment or funeral director that makes arrangements for [A]n 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)] 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)] 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] 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) Any 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 license 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.

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

[(26)] 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.

[(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) (27) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licencel 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] (28) Person Deemed to be Engaged in the Practice of Funeral Directing.

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

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

[[30] (28)] (29) 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.

A motion was made by Joy Gerstein and seconded by Martin Vernon to amend 20 CSR 2120-2.060 subsection (7) as amended.

(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.

Motion carried with Marcia Shadel, Martin Vernon, and Joy Gerstein voting in favor and Gary Fraker voting NO in opposition. James Reinhard was absent for the entire meeting.

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A motion was made by Martin Vernon and seconded by Gary Fraker to amend 20 CSR 2120-2.060 subsection (14) with changes as follows:

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

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Joy Gerstein and seconded by Gary Fraker to amend 20 CSR 2120-2.060 subsection (16) as amended.

(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. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director’s presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.

(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been complete[ed], the Missouri licensed funeral director is not required to stay with the body[.]

(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities [as] he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Martin Vernon and seconded by Joy Gerstein to amend 20 CSR 2120-2.060 subsection (17) as amended.

Any licensed funeral establishment or funeral director that makes arrangements for 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.

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Martin Vernon and seconded by Joy Gerstein to amend 20 CSR 2120-2.060 subsection (19) with changes as follows:

[(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, or 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.
Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Gary Fraker and seconded by Joy Gerstein to remove the amended language to 20 CSR 2120-2.060 subsection (21).

[(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.]\(^{1}\)

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Joy Gerstein and seconded by Gary Fraker to amend 20 CSR 2120-2.060 subsection (25) as amended.

[(25)](26) (25) 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.

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

Rules and Regulations

Proposed Amendments 20 CSR 2120-2.070 Funeral Establishments

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

**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 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 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.

(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 ownership 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

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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 establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension [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 or address of the board. 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 embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40°F) or cooler or encased in an airtight metal or metal-lined burial case.
casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

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

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

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

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

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

(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorize 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 [must] shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document:
   1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment,
   2. The relationship of that person to the deceased;
   3. The name of the person who is verbally communicating authorization to embalm and that person's relationship to the person who is actually authorizing embalming;
   4. The time and date authorization to embalm was given; and
   5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

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

(A) General price list;

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

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.

(24) Each funeral establishment licensed for embalming shall maintain on the premises in the preparation room and [embalming log] register.
(25) Each funeral establishment licensed for cremation shall maintain on the premises a completely functioning cremation chamber, as defined by 20 CSR 2120-2.071(1)(D), and maintain on the premises in the cremation area a cremation log. A funeral 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 funeral 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 funeral 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 be maintained on the premises for a minimum of the current calendar year and the previous calendar year for two (2) years from the date the record was created. All documents required 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).

(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 the Missouri State Board of Embalmers and Funeral Directors.

Open Meeting Minutes
September 27, 2007
Page 14
law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(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.

A motion was made by Joy Gerstein and seconded by Martin Vernon to amend 20 CSR 2120-2.070 subsection (2)(A); subsection (2)(B) and subsection (2)(B)(3) as amended. Have legal counsel work to clarify language on Subsection (2)(B)(1) and subsection (2)(B)(2)
(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 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 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.

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Martin Vernon and seconded by Joy Gerstein to table 20 CSR 2120-2.070 subsection (4) for legal review and clarification.

(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 ownership of the establishment. This subsection (2) shall not apply if only the owners of the stock of a corporation changes.

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Martin Vernon and seconded by Joy Gerstein to amend 20 CSR 2120-2.070 subsection (6) with changes.

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

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

A motion was made by Martin Vernon and seconded by Gary Fraker to not pursue amend language from 20 CSR 2120-2.070 subsection (15).

(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.]

Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

Rules and Regulations
Draft of Proposed Amendments 20 CSR 2120-2.070 Funeral Establishments
The board was provided the following draft of proposed amendment to 20 CSR 2120-2.070 Funeral Establishments previously reviewed by the Board.

**New Function**
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:
  - General Price List;
  - Preneed contracts which have been cancelled or fulfilled;
  - Purchase agreements; and
  - Authorizations to embalm or cremate.

A motion was made by Gary Fraker and seconded by Martin Vernon to not pursue the drafted language from 20 CSR 2120-2.070 New Function. Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. James Reinhard was absent for the entire meeting.

**Chapter 436.021 Seller Trust**
The board discussed concerns relating to Chapter 436.021 Requirements for sellers. Is a preneed seller in need of a trust for registering with the board, versus using insurance or joint accounts? Should the board require proof of having a trust when submitting annual report? A motion was made by Joy Gerstein and seconded by Martin Vernon to notify all preneed seller registrants, in writing, by October 31, 2008, that all preneed sellers must have a trust. Motion carried with Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent for this portion of the meeting and James Reinhard was absent for the entire meeting.

**Other Statutes/Rules/Regulations**
There was no discussion on this agenda item.

**Proposed Legislation**
There was no discussion on this agenda item.

**Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business**
There was no discussion on this agenda item.

**Closed Meeting**
Motion was made by Joy Gerstein and seconded by Martin Vernon to move into closed session 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 Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent for this portion of the meeting and James Reinhard was absent for the entire meeting.

Adjournment
A motion was made by Gary Fraker and seconded by Martin Vernon to adjourn. Motion carried with Martin Vernon, Gary Fraker and Joy Gerstein voting in favor with no votes in opposition. Marcia Shadel was absent for this portion of the meeting and James Reinhard was absent for the entire meeting. The meeting adjourned at 1:30 p.m. on Thursday, September 27, 2007.

Executive Director: ________________________________

Approved by the Board on: __________________________
Open Minutes
Missouri State Board of Embalmers and Funeral Directors
October 18, 2007
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

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

Closed Session
The Chairperson declared the 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.

Executive Director ________________________

Approved by Board on ____________________
Open Minutes
Missouri State Board of Embalmers and Funeral Directors
November 14, 2007
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
Marcia Shadel, Chairperson
James Reinhard, Secretary
Martin Vernon, Member
Gary Fraker, Member
Daniel T. Mahn, Member
Joy Gerstein, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director

Approved by Board on
December 3-5, 2007 Open Meeting Minutes – Incomplete at this time
Open Minutes
Missouri State Board of Embalmers and Funeral Directors
December 10, 2007
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
James Reinhard, Chairman
Marcia Shadel, Vice-Chairperson
Martin Vernon, Secretary
Gary Fraker, Member
Daniel T. Mahn, Member
Joy Gerstein, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director _______________________

Approved by Board on ___________________
Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
December 27, 2007
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
James Reinhard, Chairman
Marcia Shadel, Vice-Chairperson
Martin Vernon, Secretary
Gary Fraker, Member
Daniel T. Mahn, Member
Joy Gerstein, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director __________________________

Approved by Board on ______________________
Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
January 10, 2008
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
James Reinhard, Chairman
Marcia Shadel, Vice-Chairperson
Martin Vernon, Secretary
Gary Fraker, Member
Daniel T. Mahn, Member
Joy Gerstein, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director ______________________

Approved by Board on ____________________
Open Minutes
Missouri State Board of Embalmers
and Funeral Directors
January 30, 2008
3605 Missouri Boulevard, Suite 370
Jefferson City, Missouri

MAIL BALLOT

Board Members
James Reinhard, Chairman
Marcia Shadel, Vice-Chairperson
Martin Vernon, Secretary
Gary Fraker, Member
Daniel T. Mahn, Member
Joy Gerstein, Public Member

Closed Session
The Chairperson declared the 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.

Executive Director ______________________

Approved by Board on ____________________
OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors
Conference Call

February 27, 2008 – 9:00 a.m.
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order via conference call by James Reinhard, Chairman, at 9:10 a.m. on Wednesday, February 27, 2008, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Board Members Present via conference call
James Reinhard, Chairman – via conference call
Marcia Shadel, Vice-Chairperson – via conference call
Martin Vernon, Member – via conference call
Gary Fraker, Member – via conference call
Daniel (Todd) Mann, Member – via conference call
Joy Gerstein, Public Member – via conference call

Staff Present:
Becky Dunn, Executive Director
Lori Hayes, Inspector
Tabatha Lenzini, Licensure Technician
Kimberly Grinston, Board's Legal Counsel
Rex Fennessey, Assistant Attorney General – via conference call
Glen Webb, Assistant Attorney General – via conference call

Closed Meeting
Motion was made by Gary Fraker 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 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. Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.

Adjournment
A motion was made by Marcia Shadel and seconded by Gary Fraker to adjourn. Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. The meeting adjourned at 10:20 a.m. on Wednesday, February 27, 2008.
OPEN MEETING MINUTES
Missouri State Board of Embalmers
and Funeral Directors
Conference Call

March 19, 2008 – 4:30 p.m.
Division of Professional Registration
3605 Missouri Blvd.
Jefferson City, Missouri

The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order via conference call by James Reinhard, Chairman, at 4:45 p.m. on Wednesday, March 19, 2008, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Board Members Present via conference call
James Reinhard, Chairman – (in person at Board Office)
Marcia Shadel, Vice-Chairperson – via conference call
Martin Vernon, Member – via conference call
Gary Fraker, Member – via conference call
Daniel (Todd) Mahn, Member – via conference call
Joy Gerstein, Public Member – via conference call

Staff Present
Becky Dunn, Executive Director
Pamela Schnieders, Administrative Assistant
Tabatha Lezhini, Licensure Technician
David Barrett, Division’s Legal Counsel

Public Present
David Broeker, Division Director
Douglas M. Ommer, Department Director
Mark Stahlhuth, Senior Counsel, Insurance Solvency and Company Regulation Division
Emily Kampeter, Public Information Administrator
Doug Nelson, Consumer Protection of Attorney General’s Office – via conference call
Fred Heese, Director, Insurance Solvency and Company Regulation Division – via conference call

Closed Meeting
Motion was made by Martin Vernon 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 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. Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition.
Adjournment
A motion was made by Joy Gerstein and seconded by Martin Vernon to adjourn. Motion carried with Marcia Shadel, Martin Vernon, Gary Fraker, Todd Mahn and Joy Gerstein voting in favor with no votes in opposition. The meeting adjourned at 5:30 p.m. on Wednesday, March 19, 2008.

Executive Director: ______________________

Approved by the Board on: ______________________
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**FY 2008 OA Cost Allocation**

**Board Cost:**

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**Division Cost:**

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**FY 2008 Total Cost:** $8,680.07
Jane Drummond, Director  
Department of Health & Senior Services  
P.O. Box 570  
Jefferson City, MO  65102

Dear Ms. Drummond:

The State Board of Embalmers and Funeral Directors has been advised by Ivra Cross, Registrar, with the Bureau of Vital Records of the electronic filing of death certificates to be implemented in 2010. It has been explained to us that Homeland Security is encouraging the sharing of data electronically by all governmental agencies. We further understand that this process will be under the authority and jurisdiction of the Department of Health and Senior Services.

The Board has been contacted by funeral directors and funeral establishments throughout the state, as well as the Missouri Funeral Directors and Embalmers Association, regarding the electronic reporting process, compliance of such, and how it will impact the industry.

Ivra Cross has been extremely helpful in explaining the progress that the Department of Health and Senior Services has made with this process. The industry has many questions and concerns relating to the statutory requirements of a funeral director with regard to the processing of death certificates, attaining the physician’s signature within the five days, as well as meeting the other statutory requirements within your Department and the State Board of Embalmers and Funeral Directors.

The Board is meeting on April 9, 2008, at 9:00 a.m. in Lebanon, Missouri in open session and the electronic filing of death certificates has been requested to be an agenda item for discussion. The Board has requested that Ivra Cross attend this open meeting, along with the attorney of the Department. The Board, representatives and licensees of the funeral industry and Association are requesting your personal consideration of attendance as well, or a policy making representative from your office, to discuss the concerns and anticipated requirements of this process.

We understand that your Department is in the process of interviewing vendors, and has not yet made an award to a vendor for this project. If we are asking for guidance and direction too early in this process, please advise. We realize that vendor presentations, contract review, equipment and software purchases, takes considerable time, but we also realize that implementation will be quickly approaching and the Board wants to ensure that our licensees will be in a position to meet the requirements of the statutes and regulations as set forth by the State Board of Embalmers and Funeral Directors, as well as the Department of Health and Senior Services.
If the Board is required to propose statutory changes, due to the requirements of the Department of Health and Senior Services, we will need to discuss these proposals in the upcoming 2008 open board meetings, provide the statutory change proposals to the Division of Professional Registration, Department of Insurance, Financial Institutions and Professional Registration and the Governor’s Office for their review and approval in order to pursue this process for the next legislative session and thus have any required legislative changes in place by 2010. As it appears to us, there will be statutory changes that may need to occur within the Department of Health and Senior Services, in order for our licensees to comply in accordance with the information that has been provided to the funeral industry at this time.

The Board appreciates your attention in this matter and any assistance that you may provide to us will be very much appreciated. If you can attend our April Board meeting, or your designated policy making delegate, please contact Becky Dunn, Executive Director of our Board, as she will include you and/or your delegates on our agenda. We anticipate a good representation from the industry at this meeting, as this topic will draw a great deal of interest with the concerns of implementation.

Thank you for your attention in this matter. Please contact Becky Dunn at the State Board office if you have any questions at 573/751-0813, or wish to set up a meeting regarding this matter prior to our April Board meeting. We look forward to hearing from you.

Sincerely,

Jim Reinhard
State Board of Embalmers and Funeral Directors

Cc: State Board Membership:
Marcia Shadel, Vice Chairman
Martin Vernon, Secretary
Gary Fraker, Member
Daniel Todd Mahn, Member
Joy Gerstein, Public Member

David Broeker, Division Director, Professional Registration
Kimberly Grinston, Legal Counsel for the Board
Connie Clarkson, Director Legislation and Budget, Division of Professional Registration
Don Otto, Executive Director, Missouri Funeral Directors and Embalmers Association
Bill Bennett, President, Missouri Funeral Directors and Embalmers Association
Ivra Cross, State Registrar, Bureau of Vita Records
Becky Dunn, Executive Director, Board Office
SPC Brian Gers  
B Co., 532nd MI BN  
Unit 15547 Box 279  
APO AP 96271

Missouri Board of Embalmers and Funeral Directors  
Becky Dunn, Executive Director  
P.O. Box 423  
Jefferson City, MO 65102

February 11, 2008

To the Board:

In response to your request for comments regarding the new proposed changes to the Code of State Regulations for our profession, I offer you the following:

Several places in the rule book clearly state that a licensed Funeral Director is required to be present at all interments, funerals, ceremonies, etc. The new proposal says that an individual who is not licensed may conduct a funeral for his/her own family and not be considered to be engaged in the practice of funeral directing. Nothing in this section, however, alleviates the need for a licensed director to be present at the funeral. That is simply not mentioned in the new proposal. While that may be the intent of the section, it certainly is not communicated clearly.

If the Board feels that non-licensed individuals should have the right to bury their family, they also should make some sort of codification about the filing of the death certificate, if the Board has jurisdiction over that area, and I do not know if it does.

I hope you find this letter timely, as I was unsure whether the proposals were in effect or not.

Cordially,

Brian Gers  
Specialist, U.S. Army  
In Garrison  
Camp Humphreys, Republic of Korea
Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120—State Board of Embalmers and Funeral Directors
Chapter 2—General Rules

PROPOSED AMENDMENT
20 CSR 2120-2.060 Funeral Directing. The board is proposing to amend subsections (1)(E) and (G), sections (2), (3), (5), (7), (8), (10), (11), (14), (15), (16), and (17), add new language in section (18), move the old language in section (18) to the new section (19), renumber the next section accordingly, delete section (20), amend sections (23), (25), and (27), add new language in section (28), move the language in the old section (28) to the new section (29).

PURPOSE: This amendment clarifies language related to the practice of funeral directing. This amendment also makes gender corrections throughout the rule.

(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:

(E) Affidavit of completion of a twelve (12) consecutive month apprenticeship; or original transcript and documentation indicating [sex] he/she is a graduate of an institution 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;

(G) Proof of successful completion of the National Board Funeral Service Arts examination or the Missouri Funeral Service Arts examination, if applicable;

(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 [administered] developed 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.

(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.

(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, 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:

(8) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that is/she he/she has attended funerals and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director.

(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 upon application and payment of the administration fee to the board. Scheduling and payment of the examination fee shall be made through the International Funeral Service Examining Boards, Inc., or designee of the board, of the examination.

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

(14) It shall be considered misconduct in the practice of funeral directing for a Missouri licensed funeral director to permit any unlicensed person to engage in, or take charge of, the activities for which a license is required by law. Any funeral director that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director, shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

(15) A Missouri licensed funeral director shall be present and personally must supervise any interment, entombment, or cremation as defined in 14 CSR 120-1.040/20 CSR 2120-1.040 conducted by a Missouri licensed funeral director. However, nothing in this rule shall be interpreted as requiring the presence of a Missouri licensed funeral director if the person(s) having the right to control the incidents of burial request otherwise. If the interment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. A violation of this section shall be deemed misconduct in the practice of funeral directing.

(A) Once the body has been delivered to a cemetery for the purpose of interment or to a crematory for the purpose of cremation and after any funeral ceremonies have been completed, the Missouri licensed funeral director is not required to stay with the body.

(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities if/she he/she has under his/her contract with the person(s) having the right to control the incidents of burial.

(17) Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies (from the place of death to another location) is responsible for transporting dead human bodies within the state of Missouri or out of state, if those services are performed under the direction of a Missouri licensed funeral establishment. 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 and regulations governing the transportation of dead human bodies, including, but not limited to, Chapters 193 and 194, RSMo.

(19) (No person other than a Missouri licensed funeral establishment or funeral director shall be allowed to transport dead human bodies, (or make arrangements for the transportation or removal of a dead human body, for or on behalf of a Missouri licensed funeral director, shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

(20) Whenever an unlicensed person makes arrangements other than at-need funeral arrangements on behalf of a Missouri licensed funeral director, the unlicensed person shall be under the supervision and control of a Missouri licensed funeral director at all times.)
(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 (creation only). It shall be lawful for a limited licensee to engage in any act of funeral directing as a limited 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.

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

(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.

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

(27) 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.

(28) 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 body according 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.

(29) 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.


PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalmers and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1125 or via email to: embal@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

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

PROPOSED AMENDMENT

20 CSR 2120-2.070 Funeral Establishments. The board is proposing to amend sections (1)-(3), (6)-(10), (13), (16), (18), (20), (22)-(26), add new language in section (27), move language from the old section (27) to section (28), add a new section (29), and renumber the remaining sections accordingly.

PURPOSE: Pursuant to Executive Order 06-04 the Division of Professional Registration was transferred from the Department of Economic Development, Title 4, to the Department of Insurance, Financial Institutions and Professional Registration. Title 20. Therefore, references to 4 CSR 120 are being amended throughout the rule. This amendment also provides clarification and clean-up relating to the register log.

(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.mc.embalmers. 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 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 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. In no event shall any licensee or licensed establishment cremate human remains in the same rotort used for cremating non-human remains.

(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 issued only 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 the Missouri licensed funeral establishment desires to eliminate one (1) of its functions, other than a Function E, 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) Each application for a funeral establishment shall be made in the name of the person or business entity authorized to conduct business in Missouri. No license shall be issued to an establishment that has no legal recognition. A Missouri licensed funeral establishment shall maintain a current and active authorization to conduct business in Missouri with the Missouri Secretary of State.

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 44 CSR 120-1.040/20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charges are approved for the 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 set the application and, within thirty (30) days after the application was received in the board's office, the applicant shall be advised whether the license is granted or denied. If an applicant determines the establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension [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 one (1) preparation room or other facility in a building or portion physically separated from and located at a place designated by an address different 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.

(B) A corporation is considered 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, if 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 or as permitted by sections 333.011, 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.

(13) A Missouri licensed funeral establishment may use only its registered name in advertising 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.

(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 44 CSR 120-2.090/20 CSR 2120-2.090

(18) Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 44 CSR 120-2.071/20 CSR 2120-2.071

(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.

(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 date and time 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 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 date and time authorization to embalm was given; and
5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

(23) Each Function C funeral establishment shall maintain the following documents:

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

(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 twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances, and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations; Missouri Department of Natural Resources, statutes, rules and regulations; and all other applicable federal, city, county, and municipal statues, rules and regulations.

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

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

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

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

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

(26) All documents required by this rule to be maintained, must 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 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)(1)/(28) No dead human body shall be buried, disseminated, interred, or cremated within this state or removed from this state, unless the burial, dissemination, 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 disposition does not require legal notification to the county coroner or medical examiner, a funeral director’s presence may not be required.

Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(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)(1)/(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.


PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the State Board of Embalming and Funeral Directors, Becky Dunn, Executive Director, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102, by facsimile at (573) 751-1155 or via email to embalm@por.mogov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2145—Missouri Board of Geologist Registration
Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2145-1.020 Policy for Handling Release of Public Records. The board is proposing to amend subsection (4)(C), delete section (5), and renumber the remaining section.

PURPOSE: This amendment corrects references to the board’s fund and deletes obsolete information.

(4) The board may charge a reasonable fee for the cost for researching, inspecting and copying board records. Charges and payments of the fees shall be based on the following:

(C) All fees collected shall be payable to the [Director of Revenue/Board of Geologist Registration] for deposit to the credit of the Board of Geologist Registration.

(15) If the custodian believes that requested access is not required under Chapter 610, RSMo, the custodian shall consult with the Office of the Attorney General before deciding whether to deny access to the records. If contact with that office is not practicable or is impossible, the custodian may decide whether to deny access. However, in that case, the custodian shall consult with the Office of the Attorney General within five (5) working days of the decision. When access is denied, the custodian will comply with the requirements in section 610.023, RSMo, concerning informing the individual requesting access to the records and shall supply to members of the board copies of the written denial. At its next meeting, the board shall either affirm or reverse the decision of the custodian. If the board reverses the decision, it shall direct the custodian to so advise the requesting party and supply the access to the information during regular business hours at the party’s convenience.

(16) (5) The custodian shall maintain a file of copies of all written requests for access to records and responses to the requests. That file shall be maintained as a public record of the board for inspection by any member of the general public during regular business hours.


PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Board of Geologist Registration, Pamela Groce, Executive Director, PO Box 1335, Jefferson City, MO 65102-1335, by facsimile at (573) 751-1155 or via email to geology@por.mogov. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2145—Missouri Board of Geologist Registration
Chapter 1—General Rules

PROPOSED RECISSION

20 CSR 2145-1.030 Application for Licensure. This rule outlined the procedure for application for licensure as a registered geologist.

PURPOSE: This rule is being rescinded to move the language to Chapter 2 so that the licensees can locate information in the rule.


PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars ($500) in the aggregate.

PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars ($500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Board of Geologist Registration, Pamela Groce, Executive
REVISED

Additions to Funeral Establishments

(2)  
  • Function E establishments shall have the authority to make funeral arrangements only.

This would be inserted after (20)
  • Each Function E establishment shall contain a [conveniently located] restroom, available drinking water, and shall have on-site equipment necessary for arranging 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.

• Zoning for a function E would allow for funeral services and would not have to be for a funeral.
NEW 20 CSR 120-2.070
Additions to Funeral Establishments

(2)

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

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 arranging 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:
  - General Price List;
  - Preneed contracts which have been cancelled or fulfilled;
  - Purchase agreements; and
  - Authorizations to embalm or cremate.

- Zoning for a function E would allow for funeral services and would not have to be for a funeral home.

*This location would be a stand alone facility.
Becky,

I am submitting the following suggestion to the Missouri State Board of Embalmers and Funeral Directors. I submit that a licensed Missouri Embalmer only should have the same capacity as a Missouri Licensed Funeral Director to oversee the cremation process. In the rule, 20 CSR 2120-2071, only a licensed funeral director is the person that can oversee the cremation process. It only makes sense that an educated licensed embalmer, who takes the same test for the laws and regulations, should be more than capable to oversee this process.

I formally request that the board take this suggestion under advisement and make the necessary changes to this rule.

Thanks for your consideration.

Jerry Griffin
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New Language to be considered
20 CSR 2120-2.070 Funeral Establishments

(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] two [(1)] (2) "doing business as" names. 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.
December 10, 2007

State Board of Embalmers & Funeral Directors
c/o Becky Dunn, Executive Director
3605 Missouri Boulevard
P.O. Box 423
Jefferson City, Missouri 65102

Dear Ms. Dunn,

I am writing you with a draft addressing my concerns to the proposed amendment to Rule 20 CSR 2120-2.070 Funeral Establishments RSMo. My proposed changes to this amendment are attached with changes highlighted.

I appreciated the opportunity to speak to you and the Board last Wednesday in Kansas City. I also appreciate the fact that you and Tim took time from your busy schedule to tour our facility. The facility design is new to the world of funeral service, but tastefully designed to bring together several disciplines that are integral to funeral service and thus benefit of the public.

The consumer not only requires, but demands, convenience and economy all at one site. The result is a building that offers funeral and cemetery services with their offices, cremation for humans and pets, along with a reception center, a flower and gift shop. All of these functions are accessible to the public in a seamless and appropriate setting.

We have been open to the public for three years and our projections are being met and exceeded. The public likes what it sees and is responding in the way we had envisioned.

It is imperative that we as funeral directors and embalmers do not restrict our licensed professionals in providing the public what they need, want and ultimately demand. We have made this transition at great cost and risk, but it has proven to be the right decision.

The enclosed draft with its additions and deletions best addresses the subject as I see it. Please include me in your mailing list and notify me of your next of your meeting schedule.

Kindest Personal Regards . . .

Sincerely,

Michael Meierhoffer
President
(B) 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 areas 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 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 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—Only in the event of a time of emergency as declared by State or Federal authorities shall any license or licensed establishment cremate human remains in the same retort used for cremating non-human remains. (I address the need to use the second retort during a natural disaster or pandemic that will require all of our industries assets to be available.)

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

PROPOSED AMENDMENT

20 CSR 2120-2.070 Funeral Establishments. The board is proposing to amend sections (1)-(3), (7)-(10), (13), (16), (18), (20), (22)-(28), add new language in section (28); renumber sections accordingly and amend newly renumbered section (29) accordingly.

PURPOSE: This amendment provides clarification and clean-up relating to the register log.

(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. In no event shall any license or licensed establishment cremate human remains in the same retort used for cremating non-human remains.
(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 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 ownership of the establishment. This subsection (2) shall not apply if only the owners of the stock of a corporation changes.

(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 ownership 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 establishment will not meet the qualifications for inspection or licensure within the thirty (30)-day application period, up to two (2) thirty (30)-day extensions of the application may be requested by the applicant in writing to the board before the application expires. Each request for an extension [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
SECOND REGULAR SESSION

HOUSE BILL NO. 2469
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KUESSNER (Sponsor), WALSH AND WILDBERGER (Co-sponsors).

Read 1st time March 26, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

55241.011

AN ACT

To repeal sections 436.005, 436.021, 436.027, 436.031, 436.045, 436.055, 436.061, 436.063, and
436.067, RSMo, and to enact in lieu thereof eleven new sections relating to funeral contracts,
with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 436.005, 436.021, 436.027, 436.031, 436.045, 436.055, 436.061, 436.063,
and 436.067, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as
sections 436.005, 436.021, 436.027, 436.031, 436.045, 436.054, 436.055, 436.059, 436.061, 436.067,
and 436.068, to read as follows:

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

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

(2) "Division", the division of professional registration of the department of [economic
development] insurance, financial institutions and professional registration;

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property
incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave
markers, monuments, tombstones, crypts, niches or mausoleums [if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults
or funeral or burial services and funeral merchandise; or

(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the

costs of funeral or burial services or facilities which are not immediately required;

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

(5) "Preneed contract", [any contract or other arrangement which requires the current payment of money or other property in consideration for the final disposition of a dead human body, or for funeral or burial services or facilities, or for funeral merchandise, where such disposition, services, facilities or merchandise are not immediately required, including, but not limited to, an agreement providing for a membership fee or any other fee having as its purpose the furnishing of burial or funeral services or merchandise at a discount, except for contracts of insurance, including payment of proceeds from contracts of insurance, unless the preneed seller or provider is named as the owner or beneficiary in the contract of insurance] any agreement, contract, or plan requiring the payment of money in a lump sum or installments which is made or entered into with any person for the final disposition of a dead human body, for funeral or burial services, or the furnishing of funeral merchandise where the delivery of the funeral merchandise or the furnishing of services is not immediately required. A preneed contract includes agreements providing for a membership fee or any other fee having as its purpose the furnishing of funeral merchandise or burial or funeral services to accomplish final disposition of a dead human body. A preneed contract may be funded by any mechanism authorized by this chapter including cash payment or whole or credit life insurance;

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) "Purchaser", the person who is obligated to make payments under a preneed contract;

(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made under such preneed contract;

(10) "State board", the Missouri state board of embalmers and funeral directors;

(11) "Trustee", the trustee of a preneed trust, including successor trustees.

436.021. 1. No person, including without limitation a person who is a provider under one or more preneed contracts, shall sell, perform or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of that sale, performance, agreement, or designation, that person shall:

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

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

(3) Have registered with the state board.

2. If the establishment of a preneed trust, as required by this section, would cause undue hardship, the applicant for registration may petition the board for exemption from this
requirement. In the petition for exemption, the applicant shall provide the board with a plan to ensure preneed moneys are safeguarded and shall execute any personal guarantees, agreements to fund preneed contracts solely by life insurance, or bonds or any other agreement the board may require. Whether undue hardship exists and whether this exemption is granted shall be within the sole discretion of the board.

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

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

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

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

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

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

(c) The total number of preneed contracts sold in Missouri since the filing of the last report;

(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;

(e) The name and address of the financial institution in Missouri in which it maintains the trust accounts required under the provisions of sections 436.005 to 436.071 and the account numbers of such trust accounts;

(f) A consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of the trust account, designated by depository and account number. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(4) File with the state board a consent authorizing the state board to order an examination and if necessary an audit by staff of the division of professional registration who are not connected with the board of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. The staff of the division of professional registration in conducting the audit shall not release a detailed accounting of the trust account to the board unless there exist circumstances indicating that the account does not comply with the requirements of sections 436.005 to 436.071, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to 436.071;

(5) Cooperate with the state board, the office of the attorney general, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to 436.071.
4. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board may take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. Failure of the state board to take action regarding such sale or termination of business within sixty days shall constitute such a waiver.

5. It is a violation of the provisions of sections 436.005 to 436.071 for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.

436.027. 1. The seller may retain as his own money, for the purpose of covering his selling expenses, servicing costs, and general overhead, the initial funds so collected or paid until he has received for his use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract.

2. All funds the seller is not entitled to retain that are received as payment on a preneed contract shall be deposited in the seller's trust account within three business days of receipt.

3. After the seller has received its twenty percent, all subsequent payments made by the consumer shall be made payable directly to the trust and not to the seller.

4. If the seller receives a lump sum payment from the purchaser, the seller shall deposit the entire amount into the trust account and be entitled to receive back from the trust an amount not to exceed twenty percent of the total amount due on the preneed contract.

436.031. 1. The trustee of a preneed trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits made to it by the seller of a preneed contract and shall hold, administer, and distribute such deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to 436.071. Payments regarding two or more preneed contracts may be deposited into and commingled in the same preneed trust, so long as the trust's grantor is the seller of all such preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income, shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment and care under circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in
the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. A preneed trust agreement may provide that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars, investment decisions regarding the principal and undistributed income may be made by a federally registered or Missouri-registered independent qualified investment advisor designated by the seller who established the trust and approved by the trustee; provided, that title to all investment assets shall remain with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the seller in accordance with the provisions of this chapter. In no case shall control of said assets be divested from the trustee nor shall said assets be placed in any investment which would be beyond the authority of a reasonably prudent trustee to invest in. The trustee shall be relieved of all liability regarding reasonable and prudent investment decisions made by such qualified investment advisor. The trustee shall have the authority to remove and replace the financial advisor if the trustee determines that the financial advisor has violated or is about to violate any provision of this chapter. The trustee shall provide a written notice to the attorney general's office and to the state board of the removal, the name and address of the new trustee, and the reason for the removal.

3. Any investment of preneed funds shall be made in investments designed to increase the value of the preneed funds. No investments shall be made in any manner that does not have the potential to increase the value of the preneed funds. No trustee or financial advisor shall invest preneed funds in term life insurance policies or any similar insurance vehicle which does not have the potential to increase the value of the funds. No loans against any life insurance policy purchased with preneed money shall be allowed.

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

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

[5.] 6. The trustee of a preneed trust shall maintain adequate books of account of all transactions administered through the trust and pertaining to the trust generally. The trustee shall assist seller who established the trust or its successor in interest in the preparation of the annual report described in
subdivision (3) of subsection [2] 3 of section 436.021. The seller shall furnish to each contract purchaser, within fifteen days after receipt of the purchaser's written request, a written statement of all deposits made to such trust regarding such purchaser's contract. [6.] 7. The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to 436.071.

[7.] 8. A preneed trust shall terminate when trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

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

436.054. 1. In lieu of holding preneed funds in trust, a preneed contract may be funded by a whole life insurance policy subject to the seller making the following requirements and written disclosures to the purchaser prior to accepting a purchaser's initial payment:

(1) The purchaser shall be fully aware and receive written notice that the preneed contract funds are for the purchase of life insurance and that the funds will not be held in trust;

(2) If the insurance funding the preneed contract is sold by an insurance agent who is also an employee of the preneed seller, the agent of a preneed seller, or an employee of a licensed funeral establishment, the purchaser shall receive written notice of such relationship and be advised that he or she may fund the preneed contract by the purchase of a life insurance policy from any life insurance agent or company authorized to do business in Missouri;

(3) Written disclosure of the name, address, telephone number, and contact information for both the life insurance company and the agent of the life insurance company selling the policy;

(4) Written disclosure of the relationship of the life insurance policy to the funding of the preneed funeral contract and the nature and existence of any guarantees relating to such contract;

(5) Written disclosure of the impact on the preneed funeral contract of any:

(a) Changes in the life insurance policy, including, but not limited to, changes in the assignment, beneficiary designation, or use of the proceeds;

(b) Penalties to be incurred by the policyholder as a result of failure to make premium payments; and

(c) Penalties to be incurred or moneys to be received as a result of cancellation or surrender of the life insurance policy;
(6) Written disclosure containing all relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the life insurance policy and the amount actually needed to fund the preneed funeral contract.

2. The purchaser shall be the owner and the only person allowed to make changes to the life insurance policy. In no event shall the owner of the policy be the preneed seller.

3. In no event shall the seller, or its agent, collect from the purchaser any amount in excess of what is required to pay the premiums on the life insurance policy used to fund the preneed contract.

4. If, after the death of the beneficiary of a preneed contract, the proceeds from the life insurance policy are in excess of the actual cost of the funeral merchandise and services provided, any such excess proceeds, if the proceeds are not required to be paid to the state for reimbursement of medical benefits, shall be refunded to the person taking financial responsibility for the payment of the funeral merchandise and services, or if none, to the estate of the decedent.

436.055. 1. All complaints received by the state board which allege a registrant's noncompliance with the provisions of sections 436.005 to 436.071 or allege that a registrant has committed any act that would make him or her ineligible for registration under section 436.059 shall be forwarded to the division of professional registration for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved. A copy of each such complaint shall be forwarded to the subject registrant, except that each complaint in which the complainant alleges under oath that a registrant has misappropriated preneed contract payments may be forwarded to the division of professional registration without notice to the subject registrant.

2. The division shall investigate each complaint forwarded from the state board using staff who are not connected with the state board and shall forward the results of such investigation to the subject registrant and to the attorney general for evaluation. [If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to 436.071, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such evaluation shall be transmitted to the state board for further action as provided in sections 436.061 and 436.063.] The attorney general shall evaluate the results of each investigation and shall be authorized, at his or her discretion and with no further action from either the board or the division, to proceed with any administrative, civil, or criminal proceedings in accordance with sections 436.005 to 436.071, or he or she may refer the matter to the local prosecuting attorney.

3. The division may inspect or audit the records of any seller, provider, or preneed trust at any time to ensure a registrant's compliance with the provisions of sections 436.005 to 436.071. The division shall conduct random inspections or audits of sellers and providers of no fewer than five, nor more than twenty-five per fiscal year plus any inspection or audit requested by the board.
or the attorney general's office. After each inspection or audit, the division shall forward the results of such investigation to the subject registrant and to the attorney general. The attorney general shall have the authority to act upon the results of any such inspection or audit as if it were a complaint filed with the board.

436.059. 1. The board shall not register any applicant for registration as either a preneed seller or provider if the applicant, or if any business entity, in which each owner, partner, officer, member, or controlling ownership interest, is a:

(1) Person who has had any license, permit, or registration revoked by any insurance regulatory agency or professional licensing board of any state; or

(2) Person who has been adjudicated and found guilty, or entered a plea of guilty or nolo contendre, whether or not a sentence is imposed, in a criminal prosecution under the laws of any state or of the United States for any:

(a) Felony; or

(b) Offense where the essential element of which is fraud, dishonesty, deception, or an act of violence; or

(c) Offense involving a controlled substance; or

(d) Offense implicating the licensee's competence to practice, including violations of any statute or regulation related to the funeral industry or to consumer protection.

The board may issue a registration to an applicant ineligible for registration under this subsection if the applicant demonstrates to the satisfaction of the board and within the discretion of the board that the applicant is sufficiently rehabilitated to be fit for licensure.

2. Each person seeking registration under this chapter shall provide evidence to the board sufficient for the board to determine that each applicant, or if a business entity, in which each owner, partner, officer, member, or controlling ownership interest of the entity, is a person of good moral character.

436.061. 1. Each person who shall knowingly and willfully violate any provision of sections 436.005 to 436.071, and any officer, director, partner, agent, or employee of such person involved in such violation is guilty of a class D felony. Each violation of any provision of sections 436.005 to 436.071 constitutes a separate offense and may be prosecuted individually. The attorney general shall have concurrent jurisdiction with any local prosecutor to prosecute under this section.

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

3. The attorney general may file a complaint with the administrative hearing commission,
as provided in chapter 621, RSMo, against any seller or provider or any person who has failed to renew or has surrendered his or her seller or provider registration for any violation of any provision of this section or if the registrant has committed any act that would make him or her ineligible for registration under section 436.059.

4. Upon a finding by the administrative hearing commission that a registrant has violated any provisions of sections 436.005 to 436.071, the board may take one or more of the following actions:

(1) Censure; or

(2) Place the registrant on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years; or

(3) Suspend the registration for a period not to exceed three years; or

(4) Revoke the registration issued under sections 436.005 to 436.071.

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

436.068. The board may promulgate rules to implement the provisions of sections 436.005 to 436.071. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.
REVISED

Additions to Funeral Establishments

(2) Function E establishments shall have the authority to make funeral arrangements only.

This would be inserted after (20)

- Each Function E establishment shall contain a [conveniently located] restroom, available drinking water, and shall have on-site equipment necessary for arranging 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:
  - General Price List;
  - Preneed contracts which have been cancelled or fulfilled;
  - Purchase agreements; and
  - Authorizations to embalm or cremate.

- Zoning for a function E would allow for funeral services and would not have to be for a funeral.
[436.063. Whenever the state board determines that a registered seller or provider has violated or is about to violate any provision of sections 436.005 to 436.071 following a meeting at which the registrant is given a reasonable opportunity to respond to charges of violations or prospective violations, it may request the attorney general to apply for the revocation or suspension of the seller's or provider's registration or the imposition of probation upon terms and conditions deemed appropriate by the state board in accordance with the procedure set forth in sections 621.100 to 621.205, RSMo. Use of the procedures set out in this section shall not preclude the application of the provisions of subsection 2 of section 436.061.]
House Bill 1440 - Requires certain public officials to receive training regarding open meetings and open records and public information laws within a designated time frame.
AN ACT

To amend chapter 610, RSMo, by adding thereto three new sections relating to requiring public officials to receive training in the requirements of open meetings and open records and public information laws, with an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 610, RSMo, is amended by adding thereto three new sections, to be known as sections 610.040, 610.045, and 610.050, to read as follows:

610.040. 1. Each elected or appointed public official who is a member of a public governmental body subject to this chapter shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the public governmental body and its members concerning open meetings laws not later than the ninetieth day after the date the member:

(1) Takes the oath of office, if the member is required to take an oath of office to assume the person's duties as a member of the public governmental body; or

(2) Otherwise assumes responsibilities as a member of the public governmental body, if the member is not required to take an oath of office to assume the person's duties as a member of the public governmental body.

2. The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a public governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely

http://www.house.mo.gov/billtracking/bills081/billtxt/intro/HB14401.htm

2/26/2008
available medium at no cost. The training must include:

(1) The general background of the legal requirements for open meetings;
(2) The applicability of this chapter to public governmental bodies;
(3) Procedures and requirements regarding quorums, notice, and record keeping under this chapter;
(4) Procedures and requirements for holding an open meeting and for holding a closed meeting under this chapter;
(5) Procedures for retaining e-mails, memos, and other office communications; and
(6) Penalties and other consequences for failure to comply with this chapter.

3. The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A public governmental body shall maintain and make available for public inspection the record of its members' completion of the training.

4. Completing the required training as a member of the public governmental body satisfies the requirements of this section with regard to the member's service on a committee or subcommittee of the public governmental body and the member's ex-officio service on any other public governmental body.

5. The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open meetings required by law for the members of a public governmental body. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

6. The failure of one or more members of a public governmental body to complete the training required by this section does not affect the validity of an action taken by the public governmental body.

7. A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

610.045. 1. This section applies to an elected or appointed public official who is:

(1) A member of a multimember public governmental body;
(2) The governing officer of a public governmental body that is headed by a single officer rather than by a multimember public governmental body; or

(3) The officer for public information of a public governmental body, without regard to whether the officer is elected or appointed to a specific term.

2. Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the public governmental body with which the official serves and its officers and employees concerning open records and public information laws not later than the ninetieth day after the date the public official:

(1) Takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public official; or

(2) Otherwise assumes the person's duties as a public official, if the person is not required to take an oath of office to assume the person's duties.
3. A public official may designate a public information coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or public governmental body under this chapter. Designation of a public information coordinator under this subsection does not relieve a public official from the duty to comply with any other requirement of this chapter that applies to the public official. The designated public information coordinator shall complete the training course regarding the responsibilities of the public governmental body with which the coordinator serves and of its officers and employees under this chapter not later than the ninetieth day after the date the coordinator assumes the person's duties as coordinator.

4. The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a public governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:

(1) The general background of the legal requirements for open records and public information;
(2) The applicability of this chapter to public governmental bodies;
(3) Procedures and requirements regarding complying with a request for information under this chapter;
(4) The role of the attorney general under this chapter;
(5) Procedures for retaining e-mails, memos, and other office communications; and
(6) Penalties and other consequences for failure to comply with this chapter.

5. The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A public governmental body shall maintain and make available for public inspection the record of its public officials or, if applicable, the public information coordinator's completion of the training.

6. Completing the required training as a public official of the public governmental body satisfies the requirements of this section with regard to the public official's service on a committee or a subcommittee of the public governmental body and the public official's ex-officio service on any other public governmental body.

7. The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open records required by law for a public official or public information coordinator. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

8. A certificate of course completion is admissible as evidence in a criminal prosecution under this chapter. However, evidence that a defendant completed a course of training offered under this section is not prima facie evidence that the defendant knowingly violated this chapter.

610.050. Each elected or appointed public official who is a member of a public governmental body subject to sections 610.040 and 610.045 and who has taken the oath of office or otherwise assumed the person's responsibilities before January 1, 2009, must complete the course of training required by sections 610.040 and 610.045 before January 1, 2010.
Section B. The enactment of sections 610.040, 610.045, and 610.050, RSMo, of section A of this act shall become effective on January 1, 2009.
House Bill 1576 - Changes the laws to implement Executive Order 06-04 that renamed the Department of Insurance to the Department of Insurance, Financial Institutions, and Professional Registration.
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Bill Summaries for HB1576

* Introduced *

Bill Text for HB1576

Introduced

Click on the bill text link to access the HTML format of the bill.

Click on the PDF icon to access the PDF format of the bill text.

The .pdf version of the bill is the same as the printed copy.

Missouri House of Representatives

Last Updated February 25, 2008 at 5:39 pm

http://www.house.mo.gov/billtracking/bills081/bills/hb1576.htm

2/26/2008
House Bill 1588 - Expands the membership of the State Board of Embalmers and Funeral Directors by adding five consumer advocates.
SECOND REGULAR SESSION

HOUSE BILL NO. 1588
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER (123).

Read 1st time January 9, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 333.151, RSMo, and to enact in lieu thereof one new section relating to the state board of embalmers and funeral directors.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 333.151, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 333.151, to read as follows:

333.151. 1. The state board of embalmers and funeral directors shall consist of [six] **eleven** members, including one voting public member, appointed by the governor with the advice and consent of the senate, and five consumer advocates. Of the consumer advocate members, one shall be an employee of the attorney general's office and appointed by the attorney general, one shall be an employee of the division of aging and appointed by the director of the division of aging, one shall be an employee of the department of health and senior services and appointed by the director of the department of health and senior services, and two shall be appointed by the governor with the advice and consent of the senate. Each member appointed, other than the public member and the consumer advocate members, [appointed] shall possess either a license to practice embalming or a license to practice funeral directing in this state or both said licenses and shall have been actively engaged in the practice of embalming or funeral directing for a period of five years next before his or her appointment. Each member shall be a United States citizen, a resident of this state for a period of at least one year, a qualified voter of this state and shall be of good moral character. Not more than three members of the board shall be of the same political party. The president of the Missouri Funeral Directors Association in office at the time shall each, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five persons qualified and willing to fill the

vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Funeral Directors Association shall each include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. Each member of the board shall serve for a term of five years. Any vacancy on the board shall be filled by the governor and the person appointed to fill the vacancy shall possess the qualifications required by this chapter and shall serve until the end of the unexpired term of his or her predecessor.

3. The public member shall be at the time of his or her appointment a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.
House Bill 1853 - Requires any public governmental body to make and retain a verbatim audio recording of any closed meeting.
SECOND REGULAR SESSION

HOUSE BILL NO. 1853

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIVINS (Sponsor), SANDER, HARRIS (110) AND DOUGHERTY (Co-sponsors).

Read 1st time January 24, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3687L.011

AN ACT

To repeal sections 610.020 and 610.024, RSMo, and to enact in lieu thereof two new sections relating to minutes of public governmental body meetings, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 610.020 and 610.024, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 610.020 and 610.024, to read as follows:

610.020. 1. All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board, or other computer link, it shall post a notice of the meeting on its web site in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public and of

sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

3. A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. [No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 shall be permitted without permission of the public body; any person who violates this provision shall be guilty of a class C misdemeanor.]

4. When it is necessary to hold a meeting on less than twenty-four hours’ notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

5. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

6. If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

7. A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstention if not voting to the name of the individual member of the public governmental body. All closed meetings shall have a verbatim audio recording of the meeting taken and retained by the public governmental body.

610.024. 1. If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public governmental body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

2. When designing a public record, a public governmental body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public governmental body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

3. The verbatim audio recording of a meeting properly closed to the public under section 610.021 shall not be open for public inspection. In the case of a civil action brought to enforce sections 610.010 to 610.035, the court, if the judge believes such an examination is necessary, shall conduct an in camera examination of the verbatim audio recording as it finds appropriate in order to determine whether there has been a violation of sections 610.010 to 610.035.
4. The court may, for the purposes of a discovery request for the minutes of a closed meeting, authorize the public governmental body to redact from the minutes of the meeting closed to the public any information deemed to qualify under the attorney-client privilege.
House Bill 1871 - Adds and gives first priority to attorneys-in-fact who have been granted control of human remains by the deceased and considered as the next-of-kin as it relates to disposition of the dead body.
AN ACT

To repeal section 194.119, RSMo, and to enact in lieu thereof one new section relating to the final disposition of dead bodies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 194.119, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 194.119, to read as follows:

194.119. 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 333, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) An attorney-in-fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney-in-fact;

(2) The surviving spouse;

(3) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

(4) (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the minor; or
(c) If the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the
minor child's residence for purposes of mailing and education;
[(4)] (5) Any surviving sibling of the deceased;
[(5) Any person designated by the deceased to act as next-of-kin pursuant to a valid designation of right of
sepulcher as provided in subsection 8 of this section;]
(6) The next nearest surviving relative of the deceased by consanguinity or affinity;
(7) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no
next-of-kin assumes such responsibility;
(8) The county coroner or medical examiner; provided however that such assumption of responsibility shall not
make the coroner, medical examiner, the county, or the state financially responsible for the cost of disposition.
3. The next-of-kin of the deceased shall be entitled to control the final disposition of the remains of any dead
human being consistent with all applicable laws, including all applicable health codes.
4. A funeral director or establishment is entitled to rely on and act according to the lawful instructions of any
person claiming to be the next-of-kin of the deceased; provided however, in any civil cause of action against a funeral
director or establishment licensed pursuant to this chapter for actions taken regarding the funeral arrangements for a
deceased person in the director's or establishment's care, the relative fault, if any, of such funeral director or
establishment may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's
next-of-kin.
5. Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or
individuals with a superior right to control disposition shall notify such individual or individuals prior to making final
arrangements.
6. If an individual with a superior claim is personally served with written notice from a person with an inferior
claim that such person desires to exercise the right of sepulcher and the individual so served does not object within
forty-eight hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior
right may also waive such right at any time if such waiver is in writing and dated.
7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge
of any objection by other members of such class, the funeral director or establishment shall be entitled to rely on and
act according to the instructions of the first such person in the class to make arrangements; provided that such person
assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her
objection.
[8. Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital
relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher
shall be witnessed by two persons, and shall contain the names and last known address of each person entitled to be
next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person
so designated.]
House Bill 1928 - Increases the salary levels of county coroners beginning January 1, 2009.
SECOND REGULAR SESSION

HOUSE BILL NO. 1928
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE COOPER (120).

Read 1st time January 30, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 58.095 and 58.160, RSMo, and to enact in lieu thereof three new sections relating to coroners.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 58.095 and 58.160, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 58.095, 58.160, and 58.165, to read as follows:

58.095. 1. **Beginning January 1, 2009**, the county coroner in any county, other than in a [first classification chartered] county with a charter form of government, shall receive an annual salary computed on a basis as set forth in the following schedule. The provisions of this section shall not permit or require a reduction in the amount of compensation being paid for the office of coroner on January 1, [1997] 2009:

Assessed Valuation Salary

| $18,000,000 to 40,999,999  | $8,800 | $11,200 |
| 41,000,000 to 53,999,999  | 8,500  | 11,900  |
| 54,000,000 to 65,999,999  | 9,000  | 12,600  |
| 66,000,000 to 85,999,999  | 9,500  | 13,300  |
| 86,000,000 to 99,999,999  | 10,000 | 14,000  |
| 100,000,000 to 130,999,999| 11,000 | 15,400  |
| 131,000,000 to 159,999,999| 12,000 | 16,800  |
| 160,000,000 to 189,999,999| 13,000 | 18,200  |
| 190,000,000 to 249,999,999| 14,000 | 19,600  |
| 250,000,000 to 299,999,999| 15,000 | 21,000  |

300,000,000 or more  

[16,000] 22,400

2. [One] Two thousand dollars of the salary authorized in this section shall be payable to the coroner only if the coroner has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the coroner's office when approved by a professional association of the county coroners of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each coroner who completes the training program and shall send a list of certified coroners to the treasurer of each county. Expenses incurred for attending the training session [may] shall be reimbursed to the county coroner in the same manner as other expenses as may be appropriated for that purpose.

3. The county coroner in any county, other than a [first classification charter] county with a charter form of government, shall not, except upon two-thirds vote of all the members of the salary commission, receive an annual compensation in an amount less than the total compensation being received for the office of county coroner in the particular county on services rendered or performed on the date the salary commission votes.

4. For the term beginning in 1997, the compensation of the coroner, in counties in which the salary commission has not voted to pay one hundred percent of the maximum allowable salary, shall be a percentage of the maximum allowable salary established by this section. The percentage applied shall be the same percentage of the maximum allowable salary received or allowed, whichever is greater, to the presiding commissioner or sheriff, whichever is greater, of that county for the year beginning January 1, 1997. In those counties in which the salary commission has voted to pay one hundred percent of the maximum allowable salary, the compensation of the coroner shall be based on the maximum allowable salary in effect at each time a coroner's term of office commences following the vote to pay one hundred percent of the maximum allowable compensation. Subsequent compensation shall be determined as provided in section 50.333, RSMo.

5. Effective January 1, [1997] 2009, the county coroner in any county[, other than a county of the first classification with a charter form of government, may, upon the approval of the county commission[,] shall receive additional compensation for any month during which investigations or other services are performed for three or more decedents in the same incident during such month. The additional compensation shall be an amount that when added to the regular compensation the sum shall equal the monthly compensation of the county sheriff.

58.160. 1. The coroner, in all counties in this state in which a coroner is required by section 58.010 may have a deputy. In such counties which now contain or may hereafter contain a city of seventy-five thousand inhabitants and less than two hundred thousand inhabitants, may have such a number of deputies and assistants, to be recommended by the coroner and appointed by the county commission as deemed necessary for the prompt and proper discharge of the duties of his office, and such deputies and assistants shall be divided into classes as follows: Class "A", assistants or deputies; class "B", assistants or deputies; class "C", office clerks and copyists. Class "A" assistants or deputies shall be paid a minimum of sixteen hundred and eighty dollars per year. Class "B" assistants or deputies shall be paid a minimum of fifteen hundred dollars per year. Class "C" office clerks and copyists shall be paid a minimum of twelve hundred dollars per year.

2. All other counties shall appoint a deputy coroner, at the request of and upon the recommendation of the coroner, who may discharge all duties and exercise all powers of the coroner, and shall receive the compensation of the
coroner while serving in the coroner's absence, be compensated as provided by the county commission [or serve without compensation] with an annual minimum compensation of two thousand dollars.

58.165. 1. All coroners, deputy coroners, and assistants to the coroner in all counties of this state shall be registered with the executive director of the Missouri Coroners' and Medical Examiners' Association immediately after election by the people of their county or appointment by the governor, county commission, county coroner, or any other official having authorization to appoint such position but prior to discharging or exercising any duties or powers of that position.

2. All elected or appointed coroners, deputy coroners, and assistants to the coroner shall fulfill the obligations and requirements of that office within six months after election or appointment.

*
House Bill 2081 - Revises the definition of "practice of embalming".
SECOND REGULAR SESSION

HOUSE BILL NO. 2081
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOUGHERTY.

Read 1st time February 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4865L.011

AN ACT
To repeal section 333.011, RSMo, and to enact in lieu thereof one new section relating to the state board of embalmers and funeral directors.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 333.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 333.011, to read as follows:

333.011. As used in this chapter, unless the context requires otherwise, the following terms have the meanings indicated:

1) "Board", the state board of embalmers and funeral directors created by this chapter;

2) "Embalmers", any individual licensed to engage in the practice of embalming;

3) "Funeral director", any individual licensed to engage in the practice of funeral directing;

4) "Funeral establishment", a building, place, crematory, or premises devoted to or used in the care and preparation for burial or transportation of the human dead and includes every building, place or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose;

5) "Person" includes a corporation, partnership or other type of business organization;

6) "Practice of embalming", the work of preserving, disinfecting and preparing by arterial embalming, [or otherwise,] including the chemical preparation of a dead human body for disposition. Practice of embalming includes all activities leading up to and including arterial and cavity embalming, including but not limited to raising of vessels and suturing of incisions of dead human bodies for funeral services, transportation, burial or cremation, or the holding of oneself out as being engaged in such work;

7) "Practice of funeral directing", engaging by an individual in the business of preparing, otherwise than by
embalming, for the burial, disposal or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision or management of the operations of a funeral establishment.
House Bill 2107 - Grants immunity to funeral establishments and veterans' service organizations for simple negligence in the internment of certain remains.
SECOND REGULAR SESSION

HOUSE BILL NO. 2107
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DAY (Sponsor), CASEY, WRIGHT, MEADOWS, STREAM, DOUGHERTY, DENISON, ROORDA, NIEVES, RUESTMAN, DARROUGH, BIVINS, HUGHES, GRISAMORE, RUCKER, FISHER, FLOOK, AVERY, POLLOCK, FUNDERBURK, KELLY, NORR, WILSON (130), SANDER, SCHIEFFER, MOORE, SALVA AND DUSENBERG (Co-sponsors).

Read 1st time February 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4986L.001

AN ACT

To amend chapter 194, RSMo, by adding thereto one new section relating to the disposal of unclaimed veterans' remains.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section 1. Chapter 194, RSMo, is amended by adding thereto one new section, to be known as section 194.355, to read as follows:

194.355. 1. As used in this section the following terms shall mean:

(1) "Funeral establishment", as defined in section 333.011, RSMo, a funeral home, a funeral director, an embalmer, or an employee of any of the individuals or entities;

(2) "Veterans' service organization", an association or other entity organized for the benefit of veterans that has been recognized or chartered by the United States congress, including the disabled American veterans, veterans of foreign wars, the American legion, the legion of honor, the patriot guard, the missing in America project, and the Vietnam veterans of America. The term includes a member or employee of any of those associations or entities.

2. A funeral establishment is not liable for simple negligence in the disposition of the human remains or cremated remains of a veteran to a veterans' service organization for the purposes of internment by that organization if:

(1) The remains have been in the possession of the funeral establishment for a period of at least three years, all or any part of which period may occur or may have occurred before or after August 28, 2008.
(2) The funeral establishment has given notice, as provided in subdivision (1) or (2) of subsection 3 of this section, to the person entitled to the remains under section 194.350 of the matters provided in subsection 4 of this section; and

(3) The remains have not been claimed by the person entitled to the remains under section 194.350 within the period of time provided for in subsection 4 of this section following notice to the person entitled to the remains under section 194.350.

3. In order for the immunity provided in subsection 2 of this section to apply, a funeral establishment shall take the following action, alone or in conjunction with a veterans' service organization, to provide notice to the person entitled to the remains under section 194.350:

(1) Give written notice by mail to the person entitled to the remains under section 194.350 for whom the address of the person entitled to the remains under section 194.350 is known or can reasonably be ascertained by the funeral establishment giving the notice; or

(2) If the address of the person entitled to the remains under section 194.350 is not known or cannot reasonably be ascertained, give notice to the person entitled to the remains under section 194.350 by publication once each week for three successive weeks in a newspaper of general circulation:

(a) In the county of the veterans' residence; or

(b) If the residence of the veteran is unknown, in the county in which the veteran died; or

(c) If the county in which the veteran died is unknown, in the county in which the funeral establishment giving notice is located.

4. The notice required by subsection 3 of this section must include a statement to the effect that the remains of the veteran must be claimed by the person entitled to the remains under section 194.350 within thirty days after the date of mailing of the written notice provided for in subdivision (1) of subsection 3 of this section or within four months of the date of the first publication of the notice provided for in subdivision (2) of subsection 3 of this section, as applicable, and that if the remains are not claimed, the remains may be given to a veterans' service organization for internment.

5. A veterans' service organization receiving human remains or cremated remains of a veteran from a funeral establishment for the purposes of internment is not liable for simple negligence in the custody or internment of the remains if the veterans' service organization intered and does not scatter the remains and does not know and has no reason to know that the remains do not satisfy the requirements of subdivision (1) or (2) of subsection 3 of this section, as applicable.

6. By accepting the remains of a veteran for internment, a veterans' service organization does not agree to pay storage or other charges applied by the funeral establishment for the keeping or preservation of the remains.

7. A veterans' service organization accepting remains under this section shall take all reasonable steps to inter the remains in a veterans' cemetery. However, the organization is not liable for any additional expense for internment in a veterans' cemetery and internment in a veterans' cemetery is not a condition for immunity under this section.
HB 2177 - This bill changes provisions relating to the Missouri Sunshine Law.
INTRODUCED BY REPRESENTATIVES HARRIS (23) (Sponsor), ROORDA, PAGE AND DARROUGH (Co-sponsors).

Read 1st time February 18, 2008 and copies ordered printed.

D. ADAM CRUMBILISS, Chief Clerk

4415L.021

AN ACT

To repeal sections 23.140, 610.025, and 610.027, RSMo, and to enact in lieu thereof three new sections relating to the Missouri sunshine law.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 23.140, 610.025, and 610.027, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 23.140, 610.025, and 610.027, to read as follows:

23.140. 1. Legislation, with the exception of appropriation bills, introduced into either house of the general assembly shall, before being acted upon, be submitted to the oversight division of the committee on legislative research for the preparation of a fiscal note. The staff of the oversight division shall prepare a fiscal note, examining the items contained in subsection 2 and such additional items as may be provided either by joint rule of the house and senate or by resolution adopted by the committee or the oversight subcommittee.

2. The fiscal note shall state:

(1) The cost of the proposed legislation to the state for the next two fiscal years;
(2) Whether or not the proposed legislation will establish a program or agency that will duplicate an existing program or agency;
(3) Whether or not there is a federal mandate for the program or agency;
(4) Whether or not the proposed program or agency will have significant direct fiscal impact upon any political subdivision of the state;
(5) Whether or not any new physical facilities will be required; and
(6) Whether or not the proposed legislation will have an economic impact on small businesses. For the purpose of this subdivision "small business" means a corporation, partnership, sole proprietorship or other business entity,
including its affiliates, that:

(a) Is independently owned and operated; and
(b) Employs fifty or fewer full-time employees; and

(7) Whether or not the proposed legislation will impact the open government provisions provided in chapter 610, RSMo.

3. The fiscal note for a bill shall accompany the bill throughout its course of passage. No member of the general assembly, lobbyist or persons other than oversight division staff members shall participate in the preparation of any fiscal note unless the communication is in writing, with a duplicate to be filed with the fiscal note or unless requested for information by the fiscal analyst preparing the note. Violations of this provision shall be reported to the chairman of the legislative research committee and subject the fiscal note and proposed bill to subcommittee review. Once a fiscal note has been signed and approved by the director of the oversight division, the note shall not be changed or revised without prior approval of the chairman of the legislative research committee, except to reflect changes made in the bill it accompanies, or to correct patent typographical, clerical or drafting errors that do not involve changes of substance, nor shall substitution be made therefor. Appeals to revise, change or to substitute a fiscal note shall be made in writing by a member of the general assembly to the chairman of the legislative research committee and a hearing before the committee or subcommittee shall be granted as soon as possible. Any member of the general assembly, upon presentation of new or additional material, may, within three legislative days after the hearing on the request to revise, change or substitute a fiscal note, request one rehearing before the full committee to further consider the requested change. The subcommittee, if satisfied that new or additional material has been presented, may recommend such rehearing to the full committee, and the rehearing shall be held as soon as possible thereafter.

4. The director of the division, hereinafter provided for, or the director's designees, shall seek information and advice from the affected department, division or agency of state government and shall call upon the research staffs of the house of representatives and of the senate, and upon the staffs of the house and senate appropriations committees for assistance in carrying out fiscal notes and auditing functions and duties, during the interim, and each staff shall supply such information or advice as it may possess in response to the inquiry. The state auditor shall, upon request, cooperate and provide assistance in the conduct of audits and the preparation of reports made in connection therewith.

610.025. 1. Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions of section 610.021.

2. Any public employee sending or receiving electronic mail (e-mail), including any e-mail sent or received from a mobile communication device, concerning public business shall forward such e-mail to the custodian of the public government body. As used in this subsection, "public employee" means the state of Missouri, or any officer, agency, department, bureau, division, board or commission of the state, or any other political subdivision of or within the state. As used in this subsection, "mobile communication device" includes,
but is not limited to any cellular phone, palm pilot, blackberry, or other mobile electronic device able to send e-mail.

610.027. 1. The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section 610.021 or the assertion that the requested record is not a public record until the court directs otherwise.

2. [Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of sections 610.010 to 610.026.] In any legal proceeding there shall be a presumption that a document is open to the public. The attorney general shall determine that such public record document is subject to the provisions of sections 610.010 to 610.026.

3. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly, purposely, negligently, or recklessly violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to [one] five thousand dollars. If the court finds that there is a knowing, purposeful, negligent, or reckless violation of sections 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, [and] whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously, and whether the violation was a result of knowing, purposeful, negligent, or reckless behavior.

4. [Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to
610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote. Suit for enforcement shall be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

[6.] 5. A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the circuit court of the county of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.
HB2210 - This bill modifies sunshine law provisions.
SECOND REGULAR SESSION

HOUSE BILL NO. 2210
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JONES (89) (Sponsor), TILLEY, THOMSON, BRANDOM, ROBB, PEARCE, PORTWOOD, NANCE, LEVOTA, BURNETT, ROORDA, ZIMMERMAN, STORCH, BIVINS AND COX (Co-sponsors).

Read 1st time February 19, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4857L.021

AN ACT

To repeal sections 105.955, 610.010, 610.021, 610.022, 610.023, 610.027, and 610.100, RSMo, and to enact in lieu thereof seven new sections relating to public records and meetings, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 105.955, 610.010, 610.021, 610.022, 610.023, 610.027, and 610.100, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 105.955, 610.010, 610.021, 610.022, 610.023, 610.027, and 610.100, to read as follows:

105.955. 1. A bipartisan "Missouri Ethics Commission", composed of six members, is hereby established. The commission shall be assigned to the office of administration with supervision by the office of administration only for budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the office of administration shall not extend to matters relating to policies, regulative functions or appeals from decisions of the commission, and the commissioner of administration, any employee of the office of administration, or the governor, either directly or indirectly, shall not participate or interfere with the activities of the commission in any manner not specifically provided by law and shall not in any manner interfere with the budget request of or withhold any moneys appropriated to the commission by the general assembly. All members of the commission shall be appointed by the governor with the advice and consent of the senate from lists submitted pursuant to this section. Each congressional district committee of the political parties having the two highest number of votes cast for their candidate for governor at the last gubernatorial election shall submit two names of eligible nominees for membership on the commission to the governor, and the governor shall select six members from such nominees to serve on the commission.
2. Within thirty days of submission of the person's name to the governor as provided in subsection 1 of this section, and in order to be an eligible nominee for appointment to the commission, a person shall file a financial interest statement in the manner provided by section 105.485 and shall provide the governor, the president pro tempore of the senate, and the commission with a list of all political contributions and the name of the candidate or committee, political party, or continuing committee, as defined in chapter 130, RSMo, to which those contributions were made within the four-year period prior to such appointment, made by the nominee, the nominee's spouse, or any business entity in which the nominee has a substantial interest. The information shall be maintained by the commission and available for public inspection during the period of time during which the appointee is a member of the commission. In order to be an eligible nominee for membership on the commission, a person shall be a citizen and a resident of the state and shall have been a registered voter in the state for a period of at least five years preceding the person's appointment.

3. The term of each member shall be for four years, except that of the members first appointed, the governor shall select three members from even-numbered congressional districts and three members from odd-numbered districts. Not more than three members of the commission shall be members of the same political party, nor shall more than one member be from any one United States congressional district. Not more than two members appointed from the even-numbered congressional districts shall be members of the same political party, and no more than two members from the odd-numbered congressional districts shall be members of the same political party. Of the members first appointed, the terms of the members appointed from the odd-numbered congressional districts shall expire on March 15, 1994, and the terms of the members appointed from the even-numbered congressional districts shall expire on March 15, 1996. Thereafter all successor members of the commission shall be appointed for four-year terms. Terms of successor members of the commission shall expire on March fifteenth of the fourth year of their term. No member of the commission shall serve on the commission after the expiration of the member's term. No person shall be appointed to more than one full four-year term on the commission.

4. Vacancies or expired terms on the commission shall be filled in the same manner as the original appointment was made, except as provided in this subsection. Within thirty days of the vacancy or ninety days before the expiration of the term, the names of two eligible nominees for membership on the commission shall be submitted to the governor by the congressional district committees of the political party or parties of the vacating member or members, from the even- or odd-numbered congressional districts, based on the residence of the vacating member or members, other than from the congressional district committees from districts then represented on the commission and from the same congressional district party committee or committees which originally appointed the member or members whose positions are vacated. Appointments to fill vacancies or expired terms shall be made within forty-five days after the deadline for submission of names by the congressional district committees, and shall be subject to the same qualifications for appointment and eligibility as is provided in subsections 2 and 3 of this section. Appointments to fill vacancies for unexpired terms shall be for the remainder of the unexpired term of the member whom the appointee succeeds, and such appointees shall be eligible for appointment to one full four-year term. If the congressional district committee does not submit the required two nominees within the thirty days or if the congressional district committee does not submit the two nominees within an additional thirty days after receiving notice from the governor to submit
the nominees, then the governor may appoint a person or persons who shall be subject to the same qualifications for appointment and eligibility as provided in subsections 2 and 3 of this section.

5. The governor, with the advice and consent of the senate, may remove any member only for substantial neglect of duty, inability to discharge the powers and duties of office, gross misconduct or conviction of a felony or a crime involving moral turpitude. Members of the commission also may be removed from office by concurrent resolution of the general assembly signed by the governor. If such resolution receives the vote of two-thirds or more of the membership of both houses of the general assembly, the signature of the governor shall not be necessary to effect removal. The office of any member of the commission who moves from the congressional district from which the member was appointed shall be deemed vacated upon such change of residence.

6. The commission shall elect biennially one of its members as the chairman. The chairman may not succeed himself or herself after two years. No member of the commission shall succeed as chairman any member of the same political party as himself or herself. At least four members are necessary to constitute a quorum, and at least four affirmative votes shall be required for any action or recommendation of the commission.

7. No member or employee of the commission, during the person's term of service, shall hold or be a candidate for any other public office.

8. In the event that a retired judge is appointed as a member of the commission, the judge shall not serve as a special investigator while serving as a member of the commission.

9. No member of the commission shall, during the member's term of service or within one year thereafter:
   (1) Be employed by the state or any political subdivision of the state;
   (2) Be employed as a lobbyist;
   (3) Serve on any other governmental board or commission;
   (4) Be an officer of any political party or political organization;
   (5) Permit the person's name to be used, or make contributions, in support of or in opposition to any candidate or proposition;
   (6) Participate in any way in any election campaign; except that a member or employee of the commission shall retain the right to register and vote in any election, to express the person's opinion privately on political subjects or candidates, to participate in the activities of a civic, community, social, labor or professional organization and to be a member of a political party.

10. Each member of the commission shall receive, as full compensation for the member's services, the sum of one hundred dollars per day for each full day actually spent on work of the commission, and the member's actual and necessary expenses incurred in the performance of the member's official duties.

11. The commission shall appoint an executive director who shall serve subject to the supervision of and at the pleasure of the commission, but in no event for more than six years. The executive director shall be responsible for the administrative operations of the commission and perform such other duties as may be delegated or assigned to the director by law or by rule of the commission. The executive director shall employ staff and retain such contract services as the director deems necessary, within the limits authorized by appropriations by the general assembly.

12. Beginning on January 1, 1993, all lobbyist registration and expenditure reports filed pursuant to section
105.473, financial interest statements filed pursuant to subdivision (1) of section 105.489, and campaign finance disclosure reports filed other than with election authorities or local election authorities as provided by section 130.026, RSMo, shall be filed with the commission.

13. Within sixty days of the initial meeting of the first commission appointed, the commission shall obtain from the clerk of the supreme court or the state courts administrator a list of retired appellate and circuit court judges who did not leave the judiciary as a result of being defeated in an election. The executive director shall determine those judges who indicate their desire to serve as special investigators and to investigate any and all complaints referred to them by the commission. The executive director shall maintain an updated list of those judges qualified and available for appointment to serve as special investigators. Such list shall be updated at least annually. The commission shall refer complaints to such special investigators on that list on a rotating schedule which ensures a random assignment of each special investigator. Each special investigator shall receive only one unrelated investigation at a time and shall not be assigned to a second or subsequent investigation until all other eligible investigators on the list have been assigned to an investigation. In the event that no special investigator is qualified or available to conduct a particular investigation, the commission may appoint a special investigator to conduct such particular investigation.

14. The commission shall have the following duties and responsibilities relevant to the impartial and effective enforcement of sections 105.450 to 105.496 and chapter 130, RSMo, as provided in sections 105.955 to 105.963:

   (1) Receive and review complaints regarding alleged violation of sections 105.450 to 105.496 and chapter 130, RSMo, conduct initial reviews and investigations regarding such complaints as provided herein; refer complaints to appropriate prosecuting authorities and appropriate disciplinary authorities along with recommendations for sanctions; and initiate judicial proceedings as allowed by sections 105.955 to 105.963;

   (2) Review and audit any reports and statements required by the campaign finance disclosure laws contained in chapter 130, RSMo, and financial interest disclosure laws or lobbyist registration and reporting laws as provided by sections 105.470 to 105.492, for timeliness, accuracy and completeness of content as provided in sections 105.955 to 105.963;

   (3) Develop appropriate systems to file and maintain an index of all such reports and statements to facilitate public access to such information, except as may be limited by confidentiality requirements otherwise provided by law, including cross-checking of information contained in such statements and reports. The commission may enter into contracts with the appropriate filing officers to effectuate such system. Such filing officers shall cooperate as necessary with the commission as reasonable and necessary to effectuate such purposes;

   (4) Provide information and assistance to lobbyists, elected and appointed officials, and employees of the state and political subdivisions in carrying out the provisions of sections 105.450 to 105.496 and chapter 130, RSMo;

   (5) Make recommendations to the governor and general assembly or any state agency on the need for further legislation with respect to the ethical conduct of public officials and employees and to advise state and local government in the development of local government codes of ethics and methods of disclosing conflicts of interest as the commission may deem appropriate to promote high ethical standards among all elected and appointed officials or employees of the state or any political subdivision thereof and lobbyists;

   (6) Render advisory opinions as provided by this section;
(7) Promulgate rules relating to the provisions of sections 105.955 to 105.963 and chapter 130, RSMo. All rules and regulations issued by the commission shall be prospective only in operation;

(8) Request and receive from the officials and entities identified in subdivision (6) of section 105.450 designations of decision-making public servants.

15. In connection with such powers provided by sections 105.955 to 105.963 and chapter 130, RSMo, the commission may:

(1) Subpoena witnesses and compel their attendance and testimony. Subpoenas shall be served and enforced in the same manner provided by section 536.077, RSMo;

(2) Administer oaths and affirmations;

(3) Take evidence and require by subpoena duces tecum the production of books, papers, and other records relating to any matter being investigated or to the performance of the commission's duties or exercise of its powers. Subpoenas duces tecum shall be served and enforced in the same manner provided by section 536.077, RSMo;

(4) Employ such personnel, including legal counsel, and contract for services including legal counsel, within the limits of its appropriation, as it deems necessary provided such legal counsel, either employed or contracted, represents the Missouri ethics commission before any state agency or before the courts at the request of the Missouri ethics commission. Nothing in this section shall limit the authority of the Missouri ethics commission as provided for in subsection 2 of section 105.961; and

(5) Obtain information from any department, division or agency of the state or any political subdivision reasonably calculated to lead to the discovery of evidence which will reasonably assist the commission in carrying out the duties prescribed in sections 105.955 to 105.963 and chapter 130, RSMo.

16. (1) Upon written request for an advisory opinion received by the commission, and if the commission determines that the person requesting the opinion would be directly affected by the application of law to the facts presented by the requesting person, the commission shall issue a written opinion advising the person who made the request, in response to the person's particular request, regarding any issue that the commission can receive a complaint on pursuant to section 105.957. The commission may decline to issue a written opinion by a vote of four members and shall provide to the requesting person the reason for the refusal in writing. The commission shall give an approximate time frame as to when the written opinion shall be issued. Such advisory opinions shall be issued no later than ninety days from the date of receipt by the commission. Such requests and advisory opinions, deleting the name and identity of the requesting person, shall be compiled and published by the commission on at least an annual basis. Advisory opinions issued by the commission shall be maintained and made available for public inspection and copying at the office of the commission during normal business hours. Any advisory opinion or portion of an advisory opinion rendered pursuant to this subsection shall be withdrawn by the commission if, after hearing thereon, the joint committee on administrative rules finds that such advisory opinion is beyond or contrary to the statutory authority of the commission or is inconsistent with the legislative intent of any law enacted by the general assembly, and after the general assembly, by concurrent resolution, votes to adopt the findings and conclusions of the joint committee on administrative rules. Any such concurrent resolution adopted by the general assembly shall be published at length by the commission in its publication of advisory opinions of the commission next following the adoption of such
resolution, and a copy of such concurrent resolution shall be maintained by the commission, along with the withdrawn advisory opinion, in its public file of advisory opinions. The commission shall also send a copy of such resolution to the person who originally requested the withdrawn advisory opinion. Any advisory opinion issued by the ethics commission shall act as legal direction to any person requesting such opinion and no person shall be liable for relying on the opinion and it shall act as a defense of justification against prosecution. An advisory opinion of the commission shall not be withdrawn unless:

(a) The authorizing statute is declared unconstitutional;
(b) The opinion goes beyond the power authorized by statute; or
(c) The authorizing statute is changed to invalidate the opinion.

(2) Upon request, the attorney general shall give the attorney general’s opinion, without fee, to the commission, any elected official of the state or any political subdivision, any member of the general assembly, or any director of any department, division or agency of the state, upon any question of law regarding the effect or application of sections 105.450 to 105.496, or chapter 130, RSMo. Such opinion need be in writing only upon request of such official, member or director, and in any event shall be rendered within sixty days [that] after such request is delivered to the attorney general.

17. The state auditor and the state auditor’s duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, may audit the commission and in connection therewith may inspect materials relating to the functions of the commission. Such audit shall include a determination of whether appropriations were spent within the intent of the general assembly, but shall not extend to review of any file or document pertaining to any particular investigation, audit or review by the commission, an investigator or any staff or person employed by the commission or under the supervision of the commission or an investigator. The state auditor and any employee of the state auditor shall not disclose the identity of any person who is or was the subject of an investigation by the commission and whose identity is not public information as provided by law.

18. From time to time but no more frequently than annually the commission may request the officials and entities described in subdivision (6) of section 105.450 to identify for the commission in writing those persons associated with such office or entity which such office or entity has designated as a decision-making public servant. Each office or entity delineated in subdivision (6) of section 105.450 receiving such a request shall identify those so designated within thirty days of the commission’s request.

19. Notwithstanding any other provision of law to the contrary, all records of the commission shall be open records, except that investigative reports prepared by commission employees after the initial complaint received by the commission shall be closed records under chapter 610, RSMo, until a decision is rendered as to the complaint under investigation. If the commission decides to dismiss the complaint, such investigative reports shall continue to be closed records under chapter 610, RSMo. All meetings of the commission shall be open meetings, except for meetings in which the commission deliberates a complaint pending before the commission, which shall be closed under chapter 610, RSMo.

610.010. As used in this chapter, unless the context otherwise indicates, the following terms mean:

(1) "Closed meeting", "closed record", or "closed vote", any meeting, record or vote closed to the public;
(2) "Copying", if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) "Public business", all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) "Public governmental body", any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds, including but not limited to the administrative entity known as "The Curators of the University of Missouri" as established by section 172.020, RSMo;

(b) Any advisory committee or commission appointed by the governor by executive order;

(c) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;

(d) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power;

(e) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its chief administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision;

(f) Any quasi-public governmental body. The term "quasi-public governmental body" means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of chapter 352, 353, or 355, RSMo, or entity or unincorporated association which either:

a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

b. Performs a public function as evidenced by the management of a publicly owned facility or service or a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the

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contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or [any association that] directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; [and]

(g) Any bi-state development agency established pursuant to section 70.370, RSMo;

(h) Any organization, corporation, or other body receiving at least fifty-one percent of its annual budget either directly from public tax revenue from governmental bodies or from the United States or any agency or department that is a unit or subdivision of a governmental body;

(5) "Public meeting", any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, Internet chat, or Internet message board. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business, and shall also include any gathering of newly-elected members of the body who have not formally taken office with or without current members of the body discussing public business such that a quorum of the body would be present at such meeting;

(6) "Public record", any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record. Any lease, sublease, rental agreement, or similar instrument entered into by any public governmental body, or any sublease of a publicly-owned facility entered into between any party and the entity that shall have rights to manage the facility, or any other agreement for the rental, construction, or renovation of such facility shall be a public record;

(7) "Public vote", any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized

to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record. As used in this subdivision, "cause of action" means evidence that a lawsuit has been filed, although not yet served, or correspondence from a party to the body stating that litigation shall be filed unless certain demands are met;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

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(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

(18) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2008;

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;
(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(d) This exception shall sunset on December 31, 2008;

(20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open; and

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

610.022. 1. Except as set forth in subsection 2 of this section, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

2. A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.

3. Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Only members of a public governmental body, their attorney and staff assistants, and any other person necessary to provide information needed by the public governmental body in regard to the matter being discussed shall be permitted in a closed meeting. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.
4. Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.

5. Public records shall be presumed to be open unless otherwise exempt pursuant to the provisions of this chapter.

6. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in this chapter, such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to section 610.027.

610.023. 1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.

2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. Programs used to manipulate data collected by public governmental bodies shall be such that all of the data contained in the program may be easily accessed and manipulated by programs commonly available to the public. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.

4. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

610.027. 1. The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026.

http://www.house.mo.gov/billtracking/bills081/billtxt/intro/HB2210L.htm
3/6/2008
Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business. Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section 610.021 or the assertion that the requested record is not a public record until the court directs otherwise.

2. Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of sections 610.010 to 610.026.

3. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has knowingly violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of sections 610.010 to 610.026, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

4. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated sections 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the [closed] meeting, record or vote. Suit for enforcement shall be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

6. A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the circuit court of the county of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion.

of the attorney general or an attorney for the governmental body.

610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

1. " Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

2. " Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

3. "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

4. "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

5. "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

2. Each law enforcement agency of this state, of any county, and of any municipality shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, including a family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of
investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court [may] shall find that the party seeking disclosure of the investigative report shall [bear the] have its reasonable and necessary costs and attorneys' fees [of both parties, unless] paid if the court finds that the decision of the law enforcement agency not to open the investigative report was substantially unjustified under all relevant circumstances[, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency].

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has knowingly violated this section, the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of this section, the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in section 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.

7. The victim of an offense as provided in chapter 566, RSMo, may request that his or her identity be kept confidential until a charge relating to such incident is filed.

http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB2210L.htm

3/6/2008
HB2303 - This bill requires open meetings under the Missouri Sunshine Law if a court decision requires a commission to make a determination of retroactive applicability of a law.
SECOND REGULAR SESSION

HOUSE BILL NO. 2303
94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DONNELLY (Sponsor), JONES (89), ZWEIFEL, JOHNSON, TALBOY, VOGT, NASHEED, LEMBKE, CURLS, STORCH AND WITTE (Co-sponsors).

Read 1st time February 28, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5223L.011

AN ACT

To repeal section 610.010, RSMo, and to enact in lieu thereof one new section relating to the Missouri sunshine law.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 610.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.010, to read as follows:

610.010. As used in this chapter, unless the context otherwise indicates, the following terms mean:

(1) "Closed meeting", "closed record", or "closed vote", any meeting, record or vote closed to the public;

(2) "Copying", if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) "Public business", all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) "Public governmental body", any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds, including but not limited to the administrative entity known as "The Curators of the University of Missouri" as established by section 172.020, RSMo;

(b) Any advisory committee or commission appointed by the governor by executive order;

(c) Any department or division of the state, of any political subdivision of the state, of any county or of any
municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;

(d) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power;

(e) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its chief administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision;

(f) Any quasi-public governmental body. The term "quasi-public governmental body" means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of chapter 352, 353, or 355, RSMo, or unincorporated association which either:

   a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

   b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; and

(g) Any bi-state development agency established pursuant to section 70.370, RSMo;

(5) "Public meeting", any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, Internet chat, or Internet message board. Notwithstanding any other provision of law to the contrary, the term "public meeting" shall include any meeting in which a public governmental body receives evidence or renders a decision regarding whether a change in law resulting from a court decision should be applied retroactively or prospectively to one or more individuals or entities. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting.

http://www.house.mo.gov/billtracking/bills081/biltxt/intro/HB23031.htm
3/6/2008
with the members of the public governmental body gathered at one location in order to conduct public business;

(6) "Public record", any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term "public record" shall include any record retained by or of a public governmental body regarding whether a change in law resulting from a court decision should be applied retroactively or prospectively to one or more individuals or entities. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record;

(7) "Public vote", any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.
Senate Bill 788 - Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration by type III transfer.
### SB 788

Moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration by type III transfer.

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**Current Bill Summary**

SCS/SB 788 - This act moves the divisions of finance, credit unions and professional registration, and the State Banking Board, to the Department of Insurance, Financial Institutions and Professional Registration (DIFP) by type III transfer in keeping with Executive Order 06-04. The act further renames the Department of Insurance to the DIFP, and directs the Revisor of Statutes to change all statutory references to the department to DIFP. The act also removes all references of the divisions of finance, credit unions and professional registration as being "within the Department of Economic Development" and instead states that such divisions are within the DIFP. The act moves sections regarding the division of professional registration from Chapter 620 (Department of Economic Development) to Chapter 324 (Occupations and Professions General Provisions), and changes references in those sections to accurately reflect the statutory modifications. The act further defines "department" and "director" at the beginning of each insurance-related chapter.

This is similar in nature as SB 164 (2007).

STEPHEN WITTE

http://www.senate.mo.gov/08info/BTS_Web/Bill.aspx?SessionType=R&BillID=95 2/26/2008
Senate Bill 1025 - Modifies laws regarding the right to control the final disposition of a dead human body.
SECOND REGULAR SESSION

SENATE BILL NO. 1025

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time January 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 194.119, RSMo, and to enact in lieu thereof one new section relating to the final disposition of a dead human body.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 194.119, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 194.119, to read as follows:

194.119. 1. As used in this section, the term "right of sepulcher" means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

2. For purposes of this chapter and chapters 193, 338, and 436, RSMo, and in all cases relating to the custody, control, and disposition of deceased human remains, including the common law right of sepulcher, where not otherwise defined, the term "next-of-kin" means the following persons in the priority listed if such person is eighteen years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

(1) An attorney in fact designated in a durable power of attorney wherein the deceased specifically granted the right of sepulcher over his or her body to such attorney in fact;

(2) The surviving spouse;

[(2)] (3) Any surviving child of the deceased. If a surviving child is less than eighteen years of age and has a legal or natural guardian, such child shall not be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, shall be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin shall

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
serve in the order provided in subdivisions [(3)] (4) to (8) of this subsection;

[(3)] (4) (a) Any surviving parent of the deceased; or

(b) If the deceased is a minor, a surviving parent who has custody of the

minor; or

c) If the deceased is a minor and the deceased's parents have joint

custody, the parent whose residence is the minor child's residence for purposes

of mailing and education;

[(4)] (5) Any surviving sibling of the deceased;

[(5) Any person designated by the deceased to act as next-of-kin pursuant

to a valid designation of right of sepulcher as provided in subsection 8 of this

section;]

(6) The next nearest surviving relative of the deceased by consanguinity

or affinity;

(7) Any person or friend who assumes financial responsibility for the

disposition of the deceased's remains if no next-of-kin assumes such

responsibility;

(8) The county coroner or medical examiner; provided however that such

assumption of responsibility shall not make the coroner, medical examiner, the

county, or the state financially responsible for the cost of disposition.

3. The next-of-kin of the deceased shall be entitled to control the final

disposition of the remains of any dead human being consistent with all applicable

laws, including all applicable health codes.

4. A funeral director or establishment is entitled to rely on and act

according to the lawful instructions of any person claiming to be the next-of-kin

of the deceased; provided however, in any civil cause of action against a funeral

director or establishment licensed pursuant to this chapter for actions taken

regarding the funeral arrangements for a deceased person in the director's or

establishment's care, the relative fault, if any, of such funeral director or

establishment may be reduced if such actions are taken in reliance upon a

person's claim to be the deceased person's next-of-kin.

5. Any person who desires to exercise the right of sepulcher and who has

knowledge of an individual or individuals with a superior right to control

disposition shall notify such individual or individuals prior to making final

arrangements.

6. If an individual with a superior claim is personally served with written

notice from a person with an inferior claim that such person desires to exercise
the right of sepulcher and the individual so served does not object within forty-eight hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

7. If there is more than one person in a class who are equal in priority and the funeral director has no knowledge of any objection by other members of such class, the funeral director or establishment shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

[8. Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher shall be witnessed by two persons, and shall contain the names and last known address of each person entitled to be next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person so designated.]
Senate Bill 1061 - Requires county coroners and their assistants to register with the Missouri Coroners' and Medical Examiners' Association.
SECOND REGULAR SESSION

SENATE BILL NO. 1061

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DARNITZ.

Read 1st time January 31, 2008, and ordered printed.

46305.051

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 58, RSMo, by adding thereto one new section relating to the registration of coroners and their assistants.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 58, RSMo, is amended by adding thereto one new section, to be known as section 58.165, to read as follows:

58.165. 1. All coroners, deputy coroners, and assistants to the coroner in all counties of this state shall be registered with the executive director of the Missouri Coroners' and Medical Examiners' Association, immediately after being elected by the people of their county or appointed by the governor, county commission, county coroner, or any other official having authorization to appoint such position for the county, but prior to discharging or exercising any duties or powers of the coroner.

2. All elected or appointed coroners, deputy coroners, and assistants to the coroner shall, within six months of election or appointment, complete the required annual training under sections 58.095 and 58.096.
SB 1190 - This act authorizes the Division of Professional Registration to reduce licensure fees by emergency rule if the projected fund balance of any agency assigned to the division is reasonably expected to exceed an amount that would require transfer from that fund to the general revenue.
AN ACT

To repeal section 620.010, RSMo, and to enact in lieu thereof one new section relating to the division of professional registration.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 620.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 620.010, to read as follows:

620.010. 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The office of director of the department of business and administration, chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the department of economic development. The department of business and administration is hereby abolished.

3. The duties and responsibilities relating to subsection 2 of section 36.010, RSMo, are transferred by type I transfer to the personnel division, office of administration.

4. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 383, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers, and the state banking board,
chapter 361, RSMo, and others, and the savings and loan commission, chapter
369, RSMo, and others, are transferred by type II transfers to the department of
economic development. The director of the department is directed to provide and
coordinate staff and equipment services to these agencies in the interest of
facilitating the work of the bodies and achieving optimum efficiency in staff
services common to all the bodies. Nothing in the Reorganization Act of 1974
shall prevent the chairman of the public service commission from presenting
additional budget requests or from explaining or clarifying its budget requests to
the governor or general assembly.

5. The powers, duties and functions vested in the office of the public
counsel are transferred by type III transfer to the department of economic
development. Funding for the general counsel's office shall be by general
revenue.

6. The public service commission is authorized to employ such staff as it
deems necessary for the functions performed by the general counsel other than
those powers, duties and functions relating to representation of the public before
the public service commission.

7. There is hereby created a "Division of Credit Unions" in the department
of economic development, to be headed by a director, nominated by the
department director and appointed by the governor with the advice and consent
of the senate. All the powers, duties and functions vested in the state supervisor
of credit unions in chapter 370, RSMo, and the powers and duties relating to
credit unions vested in the commissioner of finance in chapter 370, RSMo, are
transferred to the division of credit unions of the department of economic
development, by a type II transfer, and the office of the state supervisor of credit
unions is abolished. The salary of the director of the division of credit unions
shall be set by the director of the department within the limits of the
appropriations therefor. The director of the division shall assume all the duties
and functions of the state supervisor of credit unions and the commissioner of
finance only where the director has duties and responsibilities relating to credit
unions as set out in chapter 370, RSMo.

8. The powers, duties and functions vested in the division of finance,
chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by
type II transfer to the department of economic development. There shall be a
director of the division who shall be nominated by the department director and
appointed by the governor with the advice and consent of the senate.
9. All the powers, duties and functions vested in the director of the division of savings and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other provision of law are transferred to the division of finance of the department of economic development by a type I transfer. The position of the director of the division of savings and loan supervision is hereby abolished. The director of the division of finance shall assume all the duties and functions of the director of the division of savings and loan supervision as provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law. The division of savings and loan is hereby abolished. The powers of the savings and loan commission are hereby limited to hearing appeals from decisions of the director of the division of finance approving or denying applications to incorporate savings and loan associations or to establish branches of savings and loan associations and approving regulations pertaining to savings and loan associations. Any appeals shall be held in accordance with section 369.319, RSMo.

10. On and after August 28, 1990, the status of the division is modified under a specific type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of the division is modified from that of a division transferred to the department of economic development pursuant to a type II transfer, as provided for in this section, to that of an agency possessing the characteristics of a division transferred pursuant to a type III transfer; provided, however, that the division will remain within the department of economic development. The division of insurance shall be assigned to the department of economic development as a type III division, and the director of the department of economic development shall have no supervision, authority or control over the actions or decisions of the director of the division. All authority, records, property, personnel, powers, duties, functions, matter pending and all other pertinent vestiges pertaining thereto shall be retained by the division except as modified by this section. If the division of insurance becomes a department by operation of a constitutional amendment, the department of economic development shall continue until December 31, 1991, to provide at least the same assistance as was provided in previous fiscal years for personnel, data processing support and other benefits from appropriations.

11. All the powers, duties and functions of the commerce and industrial development division and the industrial development commission, chapters 184 and 255, RSMo, and others, not otherwise transferred, are transferred by type I
transfer to the department of economic development, and the industrial
development commission is abolished. All powers, duties and functions of the
division of commerce and industrial development and the division of community
development are transferred by a type I transfer to the department of economic
development, and the division of commerce and industrial development and the
division of community development are abolished.

12. All the powers, duties and functions vested in the tourism commission,
chapter 258, RSMo, and others, are transferred to the "Division of Tourism",
which is hereby created, by type III transfer.

13. All the powers, duties and functions of the department of community
affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred
by type I transfer to the department of economic development, and the
department of community affairs is abolished. The director of the department of
economic development may assume all the duties of the director of community
affairs or may establish within the department such subunits and advisory
committees as may be required to administer the programs so transferred. The
director of the department shall appoint all members of such committees and
heads of subunits.

14. (1) There is hereby established a "Division of Professional
Registration" assigned to the department of economic development as a type III
division, headed by a director appointed by the governor with the advice and
consent of the senate.

(2) The director of the division of professional registration shall
promulgate rules and regulations which designate for each board or commission
assigned to the division the renewal date for licenses or certificates. After the
initial establishment of renewal dates, no director of the division shall
promulgate a rule or regulation which would change the renewal date for licenses
or certificates if such change in renewal date would occur prior to the date on
which the renewal date in effect at the time such new renewal date is specified
next occurs. Each board or commission shall by rule or regulation establish
licensing periods of one, two, or three years. Registration fees set by a board or
commission shall be effective for the entire licensing period involved, and shall
not be increased during any current licensing period. Persons who are required
to pay their first registration fees shall be allowed to pay the pro rata share of
such fees for the remainder of the period remaining at the time the fees are
paid. Each board or commission shall provide the necessary forms for initial
registration, and thereafter the director may prescribe standard forms for renewal
of licenses and certificates. Each board or commission shall by rule and
regulation require each applicant to provide the information which is required to
keep the board's records current. Each board or commission shall issue the
original license or certificate.

(3) The division shall provide clerical and other staff services relating to
the issuance and renewal of licenses for all the professional licensing and
regulating boards and commissions assigned to the division. The division shall
perform the financial management and clerical functions as they each relate to
issuance and renewal of licenses and certificates. "Issuance and renewal of
licenses and certificates" means the ministerial function of preparing and
delivering licenses or certificates, and obtaining material and information for the
board or commission in connection with the renewal thereof. It does not include
any discretionary authority with regard to the original review of an applicant's
qualifications for licensure or certification, or the subsequent review of licensee's
or certificate holder's qualifications, or any disciplinary action contemplated
against the licensee or certificate holder. The division may develop and
implement microfilming systems and automated or manual management
information systems.

(4) The director of the division shall establish a system of accounting and
budgeting, in cooperation with the director of the department, the office of
administration, and the state auditor's office, to ensure proper charges are made
to the various boards for services rendered to them. The general assembly shall
appropriate to the division and other state agencies from each board's funds,
money sufficient to reimburse the division and other state agencies for all
services rendered and all facilities and supplies furnished to that board.

(5) For accounting purposes, the appropriation to the division and to the
office of administration for the payment of rent for quarters provided for the
division shall be made from the "Professional Registration Fees Fund", which is
hereby created, and is to be used solely for the purpose defined in subdivision (4)
of this subsection. The fund shall consist of moneys deposited into it from each
board's fund. Each board shall contribute a prorated amount necessary to fund
the division for services rendered and rent based upon the system of accounting
and budgeting established by the director of the division as provided in
subdivision (4) of this subsection. Transfers of funds to the professional
registration fees fund shall be made by each board on July first of each year;
provided, however, that the director of the division may establish an alternative
date or dates of transfers at the request of any board. Such transfers shall be
made until they equal the prorated amount for services rendered and rent by the
division. The provisions of section 33.080, RSMo, to the contrary
notwithstanding, money in this fund shall not be transferred and placed to the
credit of general revenue until the amount in the fund at the end of the biennium
exceeds three times the appropriation from the professional registration fees fund
for the preceding fiscal year. The amount, if any, in the fund which shall lapse
is that amount in the fund which exceeds the appropriate multiple of the
appropriations from the professional registration fees fund for the preceding fiscal
year.

(6) The director of the division shall be responsible for collecting and
accounting for all moneys received by the division or its component agencies. Any
money received by a board or commission shall be promptly given, identified by
type and source, to the director. The director shall keep a record by board and
state accounting system classification of the amount of revenue the director
receives. The director shall promptly transmit all receipts to the department of
revenue for deposit in the state treasury to the credit of the appropriate
fund. The director shall provide each board with all relevant financial
information in a timely fashion. Each board shall cooperate with the director by
providing necessary information.

(7) All educational transcripts, test scores, complaints, investigatory
reports, and information pertaining to any person who is an applicant or licensee
of any agency assigned to the division of professional registration by statute or
by the department of economic development are confidential and may not be
disclosed to the public or any member of the public, except with the written
consent of the person whose records are involved. The agency which possesses
the records or information shall disclose the records or information if the person
whose records or information is involved has consented to the disclosure. Each
agency is entitled to the attorney-client privilege and work-product privilege to
the same extent as any other person. Provided, however, that any board may
disclose confidential information without the consent of the person involved in the
course of voluntary interstate exchange of information, or in the course of any
litigation concerning that person, or pursuant to a lawful request, or to other
administrative or law enforcement agencies acting within the scope of their
statutory authority. Information regarding identity, including names and
addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(9) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

(9) A compelling governmental interest shall be deemed to exist for the purposes of section 538.025, RSMo, for licensure fees to be reduced by emergency rule, if the projected fund balance of any agency assigned to the division of professional registration is reasonably expected to exceed an amount that would require transfer from that fund to general revenue.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor. All clerical and other staff services relating to the issuance and renewal of licenses of the individual boards and commissions are abolished. All clerical and other staff
services pertaining to collecting and accounting for moneys and to financial
management relative to the issuance and renewal of licenses of the individual
boards and commissions are abolished. Nothing herein shall prohibit employment
of professional examining or testing services from professional associations or
others as required by the boards or commissions on contract. Nothing herein
shall be construed to affect the power of a board or commission to expend its
funds as appropriated. However, the division shall review the expense vouchers
of each board. The results of such review shall be submitted to the board
reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the
division shall exercise only those management functions of the boards and
commissions specifically provided in the Reorganization Act of 1974, and those
relating to the allocation and assignment of space, personnel other than board
personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 326, 327, 328,
329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean
personnel whose functions and responsibilities are in areas not related to the
clerical duties involving the issuance and renewal of licenses, to the collecting
and accounting for moneys, or to financial management relating to issuance and
renewal of licenses; specifically included are executive secretaries (or comparable
positions), consultants, inspectors, investigators, counsel, and secretarial support
staff for these positions; and such other positions as are established and
authorized by statute for a particular board or commission. Boards and
commissions may employ legal counsel, if authorized by law, and temporary
personnel if the board is unable to meet its responsibilities with the employees
authorized above. Any board or commission which hires temporary employees
shall annually provide the division director and the appropriation committees of
the general assembly with a complete list of all persons employed in the previous
year, the length of their employment, the amount of their remuneration and a
description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by
and serve at the pleasure of the board or commission, shall be supervised as the
board or commission designates, and shall have their duties and compensation
prescribed by the board or commission, within appropriations for that purpose,
except that compensation for board personnel shall not exceed that established
for comparable positions as determined by the board or commission pursuant to
the job and pay plan of the department of economic development. Nothing herein
shall be construed to permit salaries for any board personnel to be lowered except
by board action.

(6) Each board or commission shall receive complaints concerning its
licensees' business or professional practices. Each board or commission shall
establish by rule a procedure for the handling of such complaints prior to the
filing of formal complaints before the administrative hearing commission. The
rule shall provide, at a minimum, for the logging of each complaint received, the
recording of the licensee's name, the name of the complaining party, the date of
the complaint, and a brief statement of the complaint and its ultimate
disposition. The rule shall provide for informing the complaining party of the
progress of the investigation, the dismissal of the charges or the filing of a
complaint before the administrative hearing commission.

16. All the powers, duties and functions of the division of athletics,
chapter 317, RSMo, and others, are transferred by type I transfer to the division
of professional registration. The athletic commission is abolished.

17. The state council on the arts, chapter 185, RSMo, and others, is
transferred by type II transfer to the department of economic development, and
the members of the council shall be appointed by the director of the department.

18. The Missouri housing development commission, chapter 215, RSMo,
is assigned to the department of economic development, but shall remain a
governmental instrumentality of the state of Missouri and shall constitute a body
corporate and politic.

19. All the authority, powers, duties, functions, records, personnel,
property, matters pending and other pertinent vestiges of the division of
manpower planning of the department of social services are transferred by a type
I transfer to the "Division of Job Development and Training", which is hereby
created, within the department of economic development. The division of
manpower planning within the department of social services is abolished. The
provisions of section 1 of the Omnibus State Reorganization Act of 1974,
Appendix B, relating to the manner and procedures for transfers of state agencies
shall apply to the transfers provided in this section.

20. Any rule or portion of a rule, as that term is defined in section
536.010, RSMo, that is created under the authority delegated in this chapter shall
become effective only if it complies with and is subject to all of the provisions of
chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking
authority delegated prior to August 28, 1999, is of no force and effect and
repealed. Nothing in this section shall be interpreted to repeal or affect the
validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
with all applicable provisions of law. This section and chapter 536, RSMo, are
nonseverable and if any of the powers vested with the general assembly pursuant
to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
annul a rule are subsequently held unconstitutional, then the grant of
rulemaking authority and any rule proposed or adopted after August 28, 1999,
shall be invalid and void.
SB 1196 - Current law requires a public body to provide a public record in a requested format, if such format is available. This act requires the public body to provide the record in the requested format if the record cannot be altered in such format by the person receiving the record.
AN ACT

To repeal section 610.023, RSMo, and to enact in lieu thereof one new section relating to requests for public records in certain format.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 610.023, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.023, to read as follows:

610.023. 1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.

2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available and the record cannot be altered in such format by the person receiving the record. If access to the public record is not granted immediately, the custodian
shall give a detailed explanation of the cause for further delay and the place and
earliest time and date that the record will be available for inspection. This period
for document production may exceed three days for reasonable cause.

4. If a request for access is denied, the custodian shall provide, upon
request, a written statement of the grounds for such denial. Such statement shall
cite the specific provision of law under which access is denied and shall be
furnished to the requester no later than the end of the third business day
following the date that the request for the statement is received.
SB 1214 - This act requires the Governor to ensure that appointive board, commission, committee, and council membership is representative of the general population of the state with respect to race and gender.
SECOND REGULAR SESSION

SENATE BILL NO. 1214

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 27, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

51355.011

AN ACT

To amend chapter 26, RSMo, by adding thereto one new section relating to racial and gender equity in the membership of boards, commissions, committees, and councils.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 26, RSMo, is amended by adding thereto one new section, to be known as section 26.103, to read as follows:

26.103. 1. The governor shall, when selecting appointees, ensure that, to the extent possible, the membership of each state appointive board, commission, committee, and council having members appointed by the governor is qualified and accurately reflects the proportion that each gender and race represents in the population of the state as determined by the most recent federal decennial census. Such equitable representation shall, to the extent possible, be achieved no later than January 1, 2012. Ex-officio members shall not be counted as members for the purposes of this section.

2. The executive officer, director, or chairperson of each state appointive board, commission, committee, and council having members appointed by the governor shall electronically report to the secretary of state no later than January 1, 2009, and annually thereafter, the number of members of such body and the composition of the body with respect to race and gender. Such report shall not include the names of the individual members of the board, commission, committee, or council. The secretary of state shall receive and maintain the reports submitted under this subsection as public records.

3. No provision of this section shall prohibit an individual from completing a term as a member of a state appointive board, commission, committee, or council or create a private right of action.
AN ACT

To repeal sections 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.063, 436.067, 436.069, and 436.071, RSMo, and to enact in lieu thereof twenty-one new sections relating to preneed funeral contracts, with a penalty provision.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 436.005, 436.007, 436.011, 436.015, 436.021, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.051, 436.053, 436.055, 436.061, 436.063, 436.067, 436.069, and 436.071, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 436.005, 436.007, 436.011, 436.015, 436.021, 436.023, 436.027, 436.031, 436.035, 436.038, 436.041, 436.045, 436.048, 436.051, 436.053, 436.055, 436.061, 436.067, 436.069, 436.071, and 436.072, to read as follows:

436.005. As used in sections 436.005 to [436.071] 436.072, unless the context otherwise requires, the following terms shall mean:

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

(2) "Division", the division of professional registration of the department of [economic development] insurance, financial institutions and professional registration;

(3) "Funeral merchandise", caskets, grave vaults, or receptacles, and other personal property incidental to a funeral or burial service, and such term shall also include grave lots, grave space, grave markers, monuments, tombstones, crypts, niches or mausoleums [if, but only if, such items are sold:

(a) By a companion agreement which is sold in contemplation of trade or barter for grave vaults or funeral or burial services and funeral merchandise; or
(b) At prices, in excess of prevailing market prices, intended to be offset by reductions in the costs of funeral or burial services or facilities which are not immediately required;

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

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

(6) "Preneed trust", a trust established by a seller, as grantor, to receive deposits of, administer, and disburse payments received under preneed contracts by such seller, together with income thereon;

(7) "Provider", the person obligated to provide the disposition and funeral services, facilities, or merchandise described in a preneed contract;

(8) "Purchaser", the person who is obligated to make payments under a preneed contract;

(9) "Seller", the person who sells a preneed contract to a purchaser and who is obligated to collect and administer all payments made by the purchaser under such preneed contract;

(10) "State board", the Missouri state board of embalmers and funeral directors;

(11) "Trustee", the trustee of a preneed trust, including successor trustees.

436.007. 1. Each preneed contract made after August 13, 1982, shall be void and unenforceable unless:

(1) It is in writing;
(2) It is executed by a seller who is in compliance with the provisions of section 436.021;

(3) It identifies the contract beneficiary and sets out in detail the final disposition of the
dead body and funeral services, facilities, and merchandise to be provided;

(4) It identifies the preneed trust or financial institution where the joint account is held
into which contract payments shall be deposited, including the name and address of the trustee or
financial institution thereof;

(5) The terms of such trust and related agreements among two or more of the contract
seller, the contract provider, and the trustee of such trust are in compliance with the provisions of
sections 436.005 to [436.071] 436.072;

(6) It contains the name and address of the seller and the provider.

2. If a preneed contract does not comply with the provisions of sections 436.005 to
[436.071] 436.072, all payments made under such contract shall be recoverable by the purchaser,
[his] the beneficiary or the beneficiary's heirs, or legal representative, from the contract seller or
other payee thereof, together with interest at the rate of ten percent per annum and all reasonable
costs of collection, including attorneys' fees.

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

4. Subject to the provisions of subdivision (5) of section 436.005, the provisions of
sections 436.005 to [436.071] 436.072 shall apply to the assignment of proceeds of any contract
of insurance for the purpose of funding a preneed contract or written in conjunction with a
preneed contract. Laws regulating insurance shall not apply to preneed contracts, but shall apply
to any insurance sold with a preneed contract.

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

6. The seller and the provider of a preneed contract may be the same person.

436.011. 1. Any seller who designates a person as a provider in a preneed contract and any provider who designates a person as a seller without a contractual relationship with such person is in violation of the provisions of sections 436.005 to [436.071] 436.072.

2. Any person who knowingly permits a seller to sell a preneed contract designating him as the provider or as one of two or more providers who will furnish the funeral merchandise and services described in the preneed contract shall provide the funeral merchandise and services described in the preneed contract for the beneficiary. Any person who knowingly permits a provider to sell a preneed contract designating such person as the seller who is obligated to collect and administer all payments made under such preneed contract shall be obligated for all such payments made by the purchaser under such preneed contract. Failure of any such person to do so shall be a violation of the provisions of sections 436.005 to [436.071] 436.072 and shall be cause for suspension or revocation of that person's license under the provisions of section 333.061, RSMo. Any seller who fails to notify the board, division, or attorney general's office of known or probable failure of compliance with a provider acting as an agent of the seller is violating sections 436.005 to 436.072.

3. If a provider has knowledge that a seller is designating him or her as the provider of funeral merchandise and services under any preneed contract and fails within thirty days after first obtaining such knowledge to take action to prevent the seller from so designating him or her as the provider, the provider shall be deemed to have consented to such designation. If a seller has knowledge that a provider is designating such seller as the seller of any preneed contract and, within thirty days after first obtaining such knowledge, fails to take action to prevent the provider from so designating such seller as the seller, the seller shall be deemed to have consented to such designation.
436.015. 1. No person shall perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract unless, at the time of such performance, agreement or designation:

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

(2) Such person is registered with the state board and files with the state board a written consent authorizing the state board and/or attorney general's office to order an examination and if necessary an audit by the staff of the division of professional registration and/or the attorney general's office who are not connected with the board of its books and records which contain information concerning preneed contracts sold for, in behalf of, or in which he or she is named as provider of the described funeral merchandise or services. The state board and attorney general's office may also order an investigation to determine compliance with this chapter.

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

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

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

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

(b) The name and address of each seller with whom it has entered into a written
agreement since last filing a report and a detailed list including the name and contract number and amount of each preneed contract written with each seller since the last filing report;

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

(3) Cooperate with the state board, the office of the attorney general of Missouri, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to [436.071] 436.072;

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

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

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

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

436.021. 1. No person, including without limitation a person who is a provider under one or more preneed contracts, shall sell, perform or agree to perform the seller's obligations under, or be designated as the seller of, any preneed contract unless, at the time of that sale, performance, agreement, or designation, that person shall:

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

(2) Have established, as grantor, a preneed trust or trusts with terms consistent with sections 436.005 to [436.071] 436.072; except for contracts of insurance and contracts with moneys held in joint accounts or certify to the board that all preneed contracts are to be funded solely by insurance or joint accounts;

(3) Have registered with the state board and is licensed by the state board as a funeral preneed seller under this chapter.

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

(1) Maintain adequate records of all such contracts and related agreements with providers and the trustee of preneed trusts or financial institution holding moneys of joint accounts regarding such contracts, including copies of all such agreements. The seller shall maintain adequate records of all such moneys paid in by purchasers and shall be obligated to collect and administer all payments made under such contracts and agreements under section 436.005;

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

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

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

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

(c) The total number of preneed contracts sold in Missouri since the filing of the last report and a detailed list including the name and contract number and amount of each preneed contract written with each seller since the last filing report;

(d) The total face value of all preneed contracts sold in Missouri since the filing of the last report;

(e) The name and address of [the] each insurance company's financial institution in Missouri in which it maintains the trust accounts insurance policies, or joint accounts required under the provisions of sections 436.005 to [436.071] 436.072 and the account numbers of such trust accounts insurance policies or joint accounts;

(f) A consent authorizing the state board and attorney general's office to order an examination and if necessary an audit by staff of the division of professional registration or attorney general's office who are not connected with the board of the trust account insurance policies or joint accounts, designated by depository and account number. The state board or attorney general's office may also order an investigation to determine compliance with this chapter. The staff of the division of professional registration or attorney general's office in conducting the audit shall not release a detailed accounting of the trust account insurance policies or joint accounts to the board unless there exist circumstances indicating that the [account does] accounts do not comply with the requirements of sections 436.005 to [436.071] 436.072, but shall provide the board with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to [436.071] 436.072;

(4) File with the state board a consent authorizing the state board and attorney general's
office to order an examination and if necessary an audit by staff of the division of professional registration or attorney general's office who are not connected with the board of its books and records relating to the sale of preneed contracts and the name and address of the person designated by the seller as custodian of these books and records. The staff of the division of professional registration or attorney general's office in conducting the audit shall not release a detailed accounting of the trust account insurance policies or joint accounts to the board unless there exist circumstances indicating that the [account does] accounts do not comply with the requirements of sections 436.005 to [436.071] 436.072, but shall provide the board and attorney general's office with a summary of the examination or audit showing general compliance with the provisions of sections 436.005 to [436.071] 436.072:

(5) Cooperate with the state board, the office of the attorney general, and the division in any investigation, examination or audit brought under the provisions of sections 436.005 to [436.071] 436.072.

3. Prior to selling or otherwise disposing of a majority of its business assets, or a majority of its stock if a corporation, or ceasing to do business as a seller, the seller shall provide written notification to the state board of its intent to engage in such sale at least sixty days prior to the date set for the closing of the sale, or of its intent to cease doing business at least sixty days prior to the date set for termination of its business. The written notice shall be sent, at the same time as it is provided to the state board, to all providers who are then obligated to provide funeral services or merchandise under preneed contracts sold by the seller. Upon receipt of the written notification, the state board [may] shall take reasonable and necessary action to determine that the seller has made proper plans to assure that the trust assets or joint accounts of the seller will be set aside and used to service outstanding preneed contracts sold by the seller. The state board may waive the requirements of this subsection or may shorten the period of notification whenever in its discretion it determines that compliance with its provisions are not necessary. [Failure of the state board to take action regarding such sale or termination of business within
sixty days shall constitute such a waiver] Written notice shall be provided by the seller to all purchasers within thirty days of the seller selling or otherwise disposing of its business assets, or its stock if a corporation, or ceasing to do business and indicating what seller will be assuming the responsibility for the preneed contracts.

4. It is a violation of the provisions of sections 436.005 to [436.071] 436.072 for any person to sell, transfer or otherwise dispose of the assets of a seller without first complying with the provisions of subsection 3 of this section.

436.023. 1. The board may refuse to issue any certificate of registration or authority, permit or license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

   (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

   (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;
(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued under this chapter or in obtaining permission to take any examination given or required under this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted under this chapter;

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

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

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

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

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

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

(13) Violation of any professional trust or confidence:
(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of any of the provisions of chapter 193, RSMo, chapter 194, RSMo, or chapter 333, RSMo;

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

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

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

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

(20) Refusing to surrender a dead human body upon request by the next of kin, legal representative or other person entitled to the custody and control of the body.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

436.027. For each preneed contract sold after August 28, 2007, the seller may retain as his or her own money, for the purpose of covering his or her selling expenses, servicing costs, and general overhead, the initial [funds] moneys so collected or paid until [he] the seller has received for his or her use and benefit an amount not to exceed twenty percent of the total amount agreed to be paid by the purchaser of such prepaid funeral benefits as such total amount is reflected in the contract. At least eighty percent of the total amount paid by the purchaser of
the prepaid funeral benefits as such total is reflected in the contract shall be placed and held in
trust. Contracts funded by joint accounts shall have held and placed one hundred percent of the
amount paid by the purchaser of the total amount agreed to be paid by the purchaser of such
prepaid funeral benefits as such total amount is reflected in the contract.

436.031. 1. The trustee of a preneed trust shall be a state or federally chartered financial
institution authorized to exercise trust powers in Missouri. The trustee shall accept all deposits
made to it by the seller of a preneed contract and shall hold, administer, and distribute such
deposits, in trust, as trust principal, pursuant to the provisions of sections 436.005 to [436.071]
436.072. Payments regarding two or more preneed contracts may be deposited into and
commingled in the same preneed trust, so long as the trust's grantor is the seller of all such
preneed contracts and the trustee maintains adequate records of all payments received.

2. All property held in a preneed trust, including principal and undistributed income,
shall be invested and reinvested by the trustee thereof. The trustee shall exercise such judgment
and care under circumstances then prevailing which men of ordinary prudence, discretion, and
intelligence exercise in the management of their own affairs, not in regard to speculation but in
regard to the permanent disposition of their [funds] moneys, considering the probable income
therefrom as well as the probable safety of their capital. A preneed trust agreement may provide
that when the principal and interest in a preneed trust exceeds two hundred fifty thousand dollars,
investment decisions regarding the principal and undistributed income may be made by a
federally registered or Missouri-registered independent qualified investment advisor designated
by the seller who established the trust; provided, that title to all investment assets shall remain
with the trustee and be kept by the trustee to be liquidated upon request of the advisor of the
seller. In no case shall control of said assets be divested from the trustee nor shall said assets be
placed in any investment which would be beyond the authority of a reasonably prudent trustee to
invest in. The trustee shall be relieved of all liability regarding investment decisions made by
such qualified investment advisor. Each individual preneed contract sold after August 28, 2008,
shall be placed and held in trust an amount equal to at least ninety percent of the total amount paid by the purchaser of the prepaid funeral benefits as such total is reflected in the contract.

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

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

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

6. All payments made by the purchaser of a preneed contract shall be paid to the seller and moneys deposited into the trust account or joint account within sixty days of receiving it under the provisions set forth in section 436.027. The seller shall notify the provider of all payments within thirty days of receipt of such payments made by the purchaser. Purchasers who choose to make payments with cash and/or pay to the seller's agent shall sign a statement showing receipt of moneys paid to the seller's agent. The seller's agent shall provide a copy of
receipt to the purchaser and a copy shall be submitted to the seller with the payment of moneys.

7. The trustee of a preneed trust shall, from time to time, distribute trust principal as provided by sections 436.005 to [436.071] 436.072.

[7.] 8. A preneed trust shall terminate when trust principal no longer includes any payments made under any preneed contract, and upon such termination the trustee shall distribute all trust property, including principal and undistributed income, to the seller which established the trust.

436.035. 1. At any time before the final disposition of the [dead body] beneficiary, or before funeral services, facilities, or merchandise described in a preneed contract are provided by the provider designated in the preneed contract, the purchaser may cancel the contract without cause by delivering written notice thereof to the seller and the provider. Within fifteen days after its receipt of such notice, the seller shall pay to the purchaser a net amount equal to all payments made into trust under the contract. Upon delivery of the purchaser's receipt for such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract. At the same time the seller makes payment to the purchaser, the seller shall notify the provider in writing of the payment made to the purchaser, including the date and the amount of the payment made. Each preneed contract made on or after August 28, 2008, cancelled by the purchaser, the seller shall pay to the purchaser an amount equal to all payments made by the purchaser and interest less actual expenses to establish and administer such contract.

2. Notwithstanding the provisions of subsection 1 of this section, if a purchaser or beneficiary is eligible, becomes eligible, or desires to become eligible, to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, the purchaser may irrevocably waive and renounce his right to cancel the contract pursuant to the provisions of subsection 1 of this section, which waiver and renunciation shall be made in writing and delivered to the contract seller; but the purchaser may designate and redesignate the provider in
the irrevocable agreement or plan [where applicable by the terms of the contract]. If a purchaser or beneficiary is eligible, becomes eligible, or desires to become eligible to receive public assistance under chapter 208, RSMo, or any other applicable state or federal law, a copy of the preneed funeral contract shall be provided to the appropriate qualifying state or federal agency. Notwithstanding, at any time before the final disposition of the beneficiary or before the funeral services, facilities, or merchandise described in the preneed contract are provided by the provider designated in the preneed contract, the purchaser may designate and redesignate the provider without cause by delivering written notice thereof to the provider and the seller. Within fifteen days after its receipt of such notice, the seller shall notify the newly designated provider of the purchaser's request. Written consent from the newly designated provider shall be attached to the preneed contract to reflect such change. The seller shall notify the purchaser and the previous provider of the redesignated provider's consent of obligation being named the new provider.

3. Notwithstanding the provisions of subsection 1 of this section, any purchaser, within thirty days of receipt of the executed contract, may cancel the contract without cause by delivering written notice thereof to the seller and the provider, and receive a full refund of all payments made on the contract. Notwithstanding, at any time before the final disposition of the beneficiary or before the funeral services, facilities, or merchandise described in the preneed contract are provided by the provider designated in the preneed contract, the purchaser may designate and redesignate the provider without cause by delivering written notice thereof to the provider and the seller. Within fifteen days after its receipt of such notice, the seller shall notify the newly designated provider of the purchaser's request. Written consent from the newly designated provider shall be attached to the preneed contract to reflect such change. The seller shall notify the purchaser and the previous provider of the redesignated provider's consent of obligation being named the new provider. Notice of this provision and the appropriate addresses for notice of cancellation shall be so designated on the face of the contract.

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

436.041. The seller shall be obligated for the collection, administering, and oversight of all payments made under such contract. If the payments payable under a preneed contract shall be more than three months in arrears, the seller may cancel the contract by delivering written notice thereof within thirty days to the purchaser and the provider. Written notice to the purchaser and provider shall allow the purchaser to have thirty days to pay into trust those payments in arrears. If such payments are not received by the seller within thirty days of notice, the seller may cancel the contract by delivering final written notice to the purchaser and the provider, and by making payment to the purchaser of a net amount equal to all payments made [into trust under the contract] by the purchaser under section 436.027. Upon delivery of the purchaser's receipt of such payment to the trustee, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

436.045. Within thirty days after a provider and a witness shall certify in writing to the seller that the provider has provided the final disposition of the [dead body] beneficiary, and funeral services, facilities, and merchandise described in the contract, or has provided alternative funeral arrangements or benefits for the beneficiary pursuant to special arrangements made with the purchaser as detailed in the written statement of charges under section 333.145, RSMo, and provide to the seller a certified copy of the death certificate, the seller shall pay to the provider a net amount equal to all payments required to be made pursuant to the written agreement between
the seller and the provider or all payments [made under the contract] by the purchaser under section 436.027. Upon delivery to the trustee of the provider's receipt for such payment, the trustee shall distribute to the seller from the trust an amount equal to all deposits made into the trust for the contract.

436.048. If a seller shall fail to make timely payment of an amount due a purchaser or a provider pursuant to the provisions of sections 436.005 to 436.071, the purchaser or provider, as appropriate, shall have the right, in addition to other rights and remedies against such seller, to make demand upon the trustee of the preneed trust for the contract to distribute to the purchaser or provider from the trust, as damages for its breach, an amount equal to all deposits made into the trust for the contract.

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

436.053. 1. Notwithstanding the provisions of sections 436.021 to 436.048, the provider and the purchaser may agree that one hundred percent of all funds paid the provider by the purchaser shall be deposited with financial institutions chartered and regulated by the federal or state government authorized to do business in Missouri in an account in the joint names and under the joint control of the provider and purchaser. If the purchaser has irrevocably waived and renounced his right to cancel the agreement between the provider and the purchaser pursuant to subdivision (5) of this subsection, such agreement may provide that all funds held in the account at the beneficiary's death shall be applied toward the purchase of funeral or burial services or facilities, or funeral merchandise, selected by the purchaser or the responsible party after the beneficiary's death, in lieu of the detailed identification of such items required by subdivision (3) of subsection 1 of section 436.007. The agreement between}
between the seller, provider and purchaser shall include all applicable information outlined in section 436.027 and shall provide that:

(1) The total consideration to be paid by the purchaser under the contract shall be made in one or more payments into the joint account, including the name and address of the financial institution which holds such moneys and the account numbers of such moneys, at the time the agreement is executed or, thereafter within five days of receipt, respectively;

(2) The financial institution shall hold, invest, and reinvest the deposited moneys in savings accounts, certificates of deposit or other accounts offered to depositors by the financial institutions, as the contract shall provide;

(3) The income generated by the deposited funds shall be used to pay the reasonable expenses of administering the agreement, and the balance of the income shall be distributed or reinvested as provided in the agreement. All preneed funeral contracts with moneys held in joint accounts written on or after August 28, 2008, shall provide that the income generated by the deposited moneys shall be used to pay the actual expenses of administering the agreement, and the balance of the income shall be reinvested in such preneed account;

(4) At any time before the final disposition, or before funeral services, facilities, and merchandise described in a preneed contract are furnished, the purchaser may cancel the contract without cause by delivering written notice thereof to the provider and the financial institution, and within fifteen days after its receipt of the notice and with consent from the funeral provider and purchaser, the financial institution shall distribute the deposited moneys to the purchaser and shall provide written notification to the provider of the amount of moneys and the date moneys were distributed to the purchaser;

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

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

(7) Within fifteen days after a provider and a witness certifies in writing to the financial institution that he or she has furnished the final disposition, or funeral services, facilities, and merchandise described in a contract, or has provided alternative funeral arrangements or benefits for the beneficiary pursuant to special arrangements made with the purchaser as detailed in the written statement of charges under section 333.145, RSMo, if the certification has been approved by the purchaser, then the financial institution shall distribute the deposited [funds] moneys to the provider.

2. There shall be a separate joint account as described in subsection 1 of this section for each preneed contract sold or arranged under this section. The seller shall, within fifteen days after receipt of the purchaser's written request, furnish to each contract purchaser a written statement of all deposits made to such joint account regarding such purchaser's contract.

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

436.055. 1. All complaints received by the state board shall be made in writing and shall
fully identify the complainant by name and address. Complaints may be made on forms which are provided by the board and available upon request. Oral or telephone communications shall not be considered or processed as complaints, but the person making such communications shall be provided with a complaint form and requested to complete and return it to the board in written form. Any member of the administrative staff of the board may make and file a complaint based upon information and belief in reliance on oral, telephone or written communications received by the board, unless such communications are believed by such staff member to be false. Such complaints which allege a registrant's noncompliance with the provisions of sections 436.005 to [436.071] 436.072 shall be forwarded to the division of professional registration and attorney general's office for investigation, except minor complaints which the state board can mediate or otherwise dispose of by contacting the parties involved. A copy of each such complaint shall be forwarded to the subject registrant, except that each complaint in which the complainant alleges under oath that a registrant has misappropriated preneed contract payments may be forwarded to the division of professional registration and attorney general's office without notice to the subject registrant. This section shall not be construed to limit the board's authority to file a complaint with the administrative hearing commission charging a licensee of the board with any actionable conduct or violation, regardless of whether such complaint exceeds the scope of acts charged in a preliminary public complaint filed with the board and whether any public complaint has been filed with the board. The board shall interpret such requirement to exist for the benefit of those members of the public who submit complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This section shall not be construed to protect or ensure to the benefit of those licensees, permit holders, registrants, or other persons against whom the board has instituted or may institute administrative or judicial proceeding concerning possible violations of sections 436.005 to 436.072.

2. The division and attorney general's office shall investigate each complaint forwarded
from the state board using staff who are not connected with the state board. The division and/or attorney general's office shall cooperate in their investigation and shall forward the results of such investigation to the subject registrant [and to the attorney general for evaluation]. The board or attorney general's office may also order an investigation to determine compliance with this chapter. If the attorney general, after independent inquiry using staff of the attorney general's office who have not represented the board, determines that there is no probable cause to conclude that the registrant has violated sections 436.005 to [436.071] 436.072, the division, the registrant and the state board shall be so notified and the complaint shall be dismissed; but, if the attorney general determines that there is such probable cause the registrant shall be so notified and the results of such evaluation shall be transmitted to the state board for further action as provided in sections 436.061 and 436.063.

436.061. 1. Each person, including the officers, directors, partners, agents, or employees of such person, who shall knowingly and willfully violate or assist or enable any person to violate any provision of sections 436.005 to [436.071, and any officer, director, partner, agent, or employee of such person involved in such violation] 436.072 by incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty is guilty of a class D felony. Each violation of any provision of sections 436.005 to [436.071] 436.072 constitutes a separate offense and may be prosecuted individually. The attorney general's office shall have concurrent authority with the local prosecutors to prosecute actions under this section.

2. Any violation of the provisions of sections 436.005 to [436.071] 436.072 shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of sections 436.005 to [436.071] 436.072, the court may, in addition to imposing the penalties provided for in sections 436.005 to [436.071] 436.072, order the revocation or suspension of the registration of a defendant seller.

436.067. No information given to the board, the division or the attorney general pursuant to the provisions of sections 436.005 to [436.071] 436.072 shall, unless ordered by a court for
good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, any person other than the seller, or the provider who is the subject thereof, the authorized employee of the board, the attorney general or the division, without the consent of the person who produced such material. However, under such reasonable conditions and terms as the board, the division or the attorney general shall prescribe, such material shall be available for inspection and copying by the person who produced such material or any duly authorized representative of such person. The state board, the division or the attorney general, or his duly authorized assistant, may use such documentary material or copies thereof in the enforcement of the provisions of sections 436.005 to [436.071] 436.072 by presentation before any court or the administrative hearing commission, but any such material which contains trade secrets shall not be presented except with the approval of the court, or the administrative hearing commission, in which the action is pending after adequate notice to the person furnishing such material. [No documentary material provided the board, the division or the attorney general pursuant to the provisions of sections 436.005 to 436.071 shall be disclosed to any person for use in any criminal proceeding.]

436.069. 1. After [July 16, 1985] August 28, 2008, each seller shall remit an annual reporting fee in an amount [of two dollars] to be determined by the board for each preneed contract sold in the year since the date the seller filed its last annual report with the state board. This reporting fee shall be paid annually and may be collected from the purchaser of the preneed contract as an additional charge or remitted to the state board from the [funds] moneys of the seller.


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

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

2. The board shall establish the amount of the fees authorized in this chapter and required by rules promulgated thereunder. Such fees shall be set at a level to produce revenue which does not substantially exceed the cost and expense of administering this chapter.

3. The board shall promulgate and enforce rules for the transaction of its business and for standards of service and practice to be followed for the registration of providers and sellers deemed necessary for the public good and consistent with the laws of this state. The board may prescribe a standard of proficiency as to the qualifications and fitness of those engaging in the practice of the preneed industry.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008, shall be invalid and void.

436.072. The board or a designated member thereof or any agent authorized by the board or attorney general's office may enter the office, premises, establishment, or place of business of any preneed seller or provider of funeral service contracts licensed in this state, or any office, premises, establishment, or place where the practice of selling and/or providing preneed funerals is carried on, or where such practice is advertised as being carried on for the purpose of inspecting such office, premises, establishment, or place and for the purpose of inspecting the license and registration of any licensee or inspection of preneed contracts.

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

December 2-4, 2008
InterContinental Kansas City at the Plaza (Fairmont)
401 Ward Parkway
Kansas City, Missouri

Notice and Agenda to be posted at a later date.