OPEN MEETING MINUTES
Missouri State Board of Embalmers and Funeral Directors

October 20, 2009
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri

Tuesday, October 20, 2009 8:25 a.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors was called to order by Martin Vernon, Chairman, at 8:25 a.m. on Tuesday, October 20, 2009, at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
Todd Mahn, Secretary
James Reinhard, Member
John McCulloch, Member
Joy Gerstein, Public Member

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Sharon Euler, Assistant Attorney General
Don Eggen, Chief Investigator

Approval of Agenda
Motion was made by Gary Fraker and seconded by Todd Mahn to approve the open agenda. Motion carried with Gary Fraker, Todd Mahn, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Closed Meeting
Motion was made by Gary Fraker and seconded by Todd Mahn 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 324.001.8 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 324.001.9
RSMo 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 Gary Fraker, Todd Mahn, James Reinhard, John McCulloch and Joy
Gerstein voting in favor with no votes in opposition.

Tuesday, October 20, 2009 11:00 a.m.
The meeting of the Missouri State Board of Embalmers and Funeral Directors reconvened in
open session at approximately 11:00 a.m. on Tuesday, October 20, 2009. The meeting was
called to order by Martin Vernon, Chairman, at the Division of Professional Registration, 3605
Missouri Boulevard, Jefferson City, Missouri.

Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
Todd Mahn, Secretary
James Reinhard, Member
John McCulloch, Member
Joy Gerstein, Public Member

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Sharon Euler, Assistant Attorney General
Don Eggen, Chief Investigator
Margaret Landwehr, Assistant Attorney General

Public Present
Darlene Russell, CFL Preneed
Chris Moody, Lobbyist on behalf of SCI
Farrell Gernswn, self
Barbara Germann, self and Representative Timothy Meadows
Leesa Wimberley, self
Gerry DeLong, self
Don Lakin, Lakin Funeral Home
Kristin Underwood, Consumer Protection of the Attorney General's Office

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Darla Fox, self
Joe Schlotzhaver, Consumer Protection of the Attorney General's Office
Margaret Landwehr, AG Office
Greg Bruce, self
Brad Speak, Speaks Funeral Home and CFA
Amy Battagler, Stewart Enterprise

Buescher Memorial Home & Barbara Buescher Disciplinary Hearing –
11:00 a.m.
Note: John McCulloch abstained from discussion, deliberation and votes on this portion of
the closed meeting.
The Board held a Disciplinary Hearing at 11:00 a.m. for Buescher Memorial Home and
Barbara Buescher. Barbara Buescher was not present and no one appeared on her behalf.
Margaret Landwehr, Assistant Attorney General represented the State of Missouri and Earl
Kraus, Senior Legal Counsel, served as the Board's legal advisor. Testifying as witnesses on
behalf of the Board were; Becky Dunn, Barbara Vossen Bruce German, Gregory William
Bruce, Leesa Gayle Dooley Wimberley and Lori Hayes. Board members present were Martin
Vernon, Gary Fraker, Todd Mahn, James Reinhard, and Joy Gerstein. John McCulloch
abstained from the discussion and vote. At the conclusion of the Disciplinary Hearing the
Board held its deliberation in Closed Session.

Closed Meeting
Motion was made by Todd Mahn 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
324.001.8 RSMo for discussing educational transcripts and/or test scores and/or complaints
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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 Gary Fraker, Todd Mahn, James Reinhard, John McCulloch and Joy
Gerstein voting in favor with no votes in opposition.

Recess
The Board recessed for lunch at 12:00 p.m. and returned to go into Open Session at 1:00
p.m.
Roll Call
Board Members Present
Martin Vernon, Chairman
Gary Fraker, Vice-Chairman
Todd Mahn, Secretary
James Reinhard, Member
John McCulloch, Member
Joy Gerstein, Public Member

Staff Present
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Earl Kraus, Senior Legal Counsel
Sharon Euler, Assistant Attorney General
Connie Clarkston, Director of Budget & Legislation
Don Eggen, Chief Investigator

Public Present
Bill Statler, Preneed Resource Company
Amy Battagler, Stewart Enterprise
Don Lakin, Lakin Funeral Home
Darlene Russell, CFL Preneed
Chris Moody, Lobbyist on behalf of SCI
Don Otto, MFDEA/MFT
Mark Warren, MPNC
Bob Baker, MFDEA/MFT
Brad Speaks, Speaks Funeral Home/CFA
Rep. Timothy Meadows, Missouri House of Representatives
Kevin O'Sullivan, O'Sullivan Muckle
Ellen O'Sullivan, O'Sullivan Muckle
Willie Stone, DHSS-BUR
Ivra Cross, DHSS-BUR
J. Scott Lindley, CFA/Lindley Funeral Home

A court reporter was present and recorded the discussion. The transcript is a permanent part of the record and as such a summary of the discussion is not made a part of the official minutes of this meeting.

Future Meeting Dates
The December 8-9, 2009 meeting scheduled to be held in Kansas City at the Intercontinental, with open session tentatively scheduled to be held on December 9th.
Senate Bill 1 Implementation Process
A motion was made by John McCulloch and seconded by Gary Fraker to have Emergency Rule titled "Filing of Notice of Intent to Apply" amended and refiled, allowing preneed agents who had filed a Notice of Intent Application, until March 31, 2010 to pass the Missouri law examination. Motion carried with Gary Fraker, Todd Mahn, John McCulloch, James Reinhard and Joy Gerstein voting in favor with no votes in opposition.

A motion was made by John McCulloch and seconded by Gary Fraker to draft a rule allowing preneed contract sellers to collect $36.00 on insurance-funded as well as all other applicable preneed contracts. Motion carried with Gary Fraker, John McCulloch, James Reinhard and Joy Gerstein voting in favor with Todd Mahn voting in opposition. Motion carried.

Electronic Death Certificate - Update
Ivra Cross addressed the Board and updated them on the electronic filing of death certificates. She stated she is preparing instructions to send to participants in her pilot program, at which time training will begin.
Ivra Cross also addressed concerns with cremations and the filing of a completed death certificate, filing of a written confirmation authorizing the cremation to a funeral director/crematory.

Special Duty Receiver – Update
Don Otto states he has been to a meeting in Texas with Special Duty Receiver and orphan contracts are still in question. Everything is running well.

MFDEA/Don Otto – Update
The consensus of the Board was for the attorneys to get together including Sharon Euler, Assistant Attorney General and Earl Kraus, Senior Legal Counsel with a list of issues the Board is interested in discussing and bring back to the Board for open discussion during open session.

Robert Cowherd Letter/Consumer Funeral Assurance (CFA)
The board reviewed a letter addressed to the Missouri Attorney General’s Office relating to issues that Consumer Funeral Assurance (CFA) requested be addressed by the Board.
1. Timely Payment of Claims by National Prearranged Services (NPS).
2. Orphan contracts.
4. Missouri Trust Companies.
5. Access to Telephone Conferences with SDR.
6. Claim Forms from SDR.
Consumer Funeral Assurance is requesting the Board to ask the Attorney General's Office to do something about these issues. Sharon Euler stated issues should be addressed to the SDR and Missouri Guarantee Association as the Attorney General does not have the authority to address these questions.

A motion was made by John McCulloch to take these concerns to the Attorney General’s office. No second to the motion was made. Motion failed.
Open Discussion – Dialogue with General Public Attending Open Session Continuation and/or Completion of any Unfinished Open Session Business
A motion was made by James Reinhard to have a series of meetings to discuss ways to solve legal issues, interpretation of statutes, possible development of proposed rules and finance issues. No second to the motion was made. Motion failed. Discussion was held relating to the development of a list of issues to get this started from attorneys. Bring the issues back to the full board in Open Meeting.

Closed Meeting
Motion was made by Todd Mahn 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 324.001.8 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 324.001.9 RSMo 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 Gary Fraker, Todd Mahn, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition.

Executive Session
The board went into executive session at 5:00 p.m.

Adjournment
A motion was made by Todd Mahn and seconded by Gary Fraker to adjourn. Motion carried with Gary Fraker, Todd Mahn, James Reinhard, John McCulloch and Joy Gerstein voting in favor with no votes in opposition. The meeting adjourned at 5:45 p.m. on Tuesday, October 20, 2009.

Executive Director: Sandy Sebastian

Approved by the Board on: 10/14/11
BEFORE THE STATE BOARD OF EMBALMERS
AND FUNERAL DIRECTORS
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS
OPEN MEETING
OCTOBER 20, 2009
Jefferson City, Missouri

BEFORE: Martin Vernon, Chairman
Gary Fraker, Vice Chairman
Todd Mahn, Board Member
Jim Reinhard, Board Member
John McCulloch, Board Member
Joy Gerstein, Board Member

Also in Attendance:
Becky Dunn, Executive Director
Lori Hayes, Inspector
Pam Schnieders, Administrative Assistant
Connie Clarkson, Director of Budget and Legislation
Don Eggen, Inspector

ORIGINAL

TIGER COURT REPORTING, LLC
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APPEARANCES

FOR THE BOARD OF EMBALMERS AND FUNERAL DIRECTORS:

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CERTIFIED COURT REPORTER:

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Tiger Court Reporting, LLC
3510 Buttonwood Drive, Suite 200
Columbia, Missouri 65201
573.886.8942
PROCEDINGS

MS. DUNN: Martin asked for me to check availability at our same location in Kansas City. So it appears as if we can get our meeting rooms scheduled for -- the meeting would be on December 8th and 9th, and I'm not sure which day would be open. So we will certainly confirm that, but right now we have December 8th and 9th held for a meeting, and then we just have to determine which day will be open. I would say probably December 9th.

MR. LAKIN: What's the name of it, Continental what?

MS. DUNN: Intercontinental.

MR. LAKIN: Intercontinental.

CHAIRMAN VERNON: Anything on that?

MS. DUNN: No. We'll just tentatively say open will be December 9th.

CHAIRMAN VERNON: Okay. So there's your next dates. All right.

Mr. Otto, are you prepared to --

MR. OTTO: If you would like me to.

CHAIRMAN VERNON: -- deal with electronic death certificates, special deputy receiver, and MFDEA, slash, Don Otto?
MR. OTTO: First, the electronic death certificate issue: Our president, Kalene Summerville, and myself met with Margaret Donnelly and her chief of staff two weeks ago now on the electronic death certificate issue. What I'm pleased to report is for the first time sitting across from somebody on this issue, we all truly felt that they got the problem; you know, the light bulb went on.

We presented that there were two basic problems with the electronic death certificate system as it has been proposed. One, even if it works exactly as envisioned and everybody's on the system and there's no problems with it, it'll take you a week to get your death certificate.

But after January 1, they want to take away the option of getting the death certificate at your local health department in all cases. Which then means if either the funeral home or the doctor is not on the electronic system, and nobody will be at January 1, you will have to mail your request for a death certificate into Jefferson City, at which time they will let you know, after they enter all the data, when it's okay for you to go pick up the death certificate.

They told us two weeks ago that they
envision that will take a month and that creates two
problems. One, which we kind of call the family
concern problem and the other one's the regulatory
problem.

The family concern problem is, of
course, that the families are not going to be happy
about waiting for a month for a death certificate;
can't get insurance, can't open safe deposit boxes,
can't open an estate, funeral directors can't get paid.
That's 30 extra days to add on before you can send your
claim down to MPS. And people are not going to be
happy about that for good reasons.

And the second was the regulatory
problem of direct cremation. That by their own rules,
you've got to do that within 24 hours and you have to
have a death certificate. And then we also went over
how that alternative doctor's letter really doesn't
work in many cases.

So what was good about the meeting is
they -- I truly believe they understood the problem and
expressed that they want to do something to, as best as
possible, solve the problem. So we left the meeting
feeling very good. Whether or not they are able to
come up with something that solves the problem, I don't
know.
Another thing we pointed out is that the system's supposed to go online January 1, and they haven't even started the pilot program yet, you know. And it's not looking like the pilot program's going to start until November. How can you -- how can you start something January 1 when the pilot program to see if it works doesn't start until November? That's kind of weird, so --

MR. LAKIN: I want to comment on one thing you said. I want to know -- they said that it would -- about the cremation authorization, now repeat that again.

MR. OTTO: Well, the problem with the alternative cremation authorization level -- letter is there's several problems with that. If you actually read the regulation, you know, it says you use the death certificate or get the doctor's letter. The doctor's letter's only supposed to be used if the cause of death cannot be determined within the first 72 hours.

So what the situation is, is it takes you a week to get your death certificate if the system works perfectly; but you know the cause of death, it just takes you a week to get the death certificate. well, that -- arguably, that doctor's authorization is
not permitted under the regulation. Plus, as I pointed out, try going to University of Missouri sometime and find a doctor that can, you know, read English, let alone fill out a letter for you.

MR. LAKIN: Ivra Cross made the statement at the coroner's meeting about two weeks ago, and I'm going to question her about this, that that death certificate did not have to be filed prior to cremation, according to their regulation. And she is -- she is correct. It is not in 193, anything about it. It's only in 33-- 333 is where it is. But she made the statement at the coroner's meeting that that didn't make any difference to them.

MR. OTTO: No. I would disagree with that, because paragraph three of their own regulation says that the crematory can only accept the body for cremation if you either have the death certificate or the alternative letter, so --

MR. LAKIN: I'm just telling you what she said.

MR. OTTO: I -- I -- yeah. There's several things she said that I don't necessarily agree with. But anyway, the nice thing about it is I believe Ms. Donnelly and her chief of staff, actually the light bulb went on and they saw there's a problem and they
want to try to do something. Whether they do or not, we'll just have to wait and see. So that's where we're at with that.

Yes, sir?

MR. REINHARD: Well, and I'll -- like Don referred to, they had a coroner's meeting up here. I was at the meetings. Ivra's not stepping down off this deal; she's on fire about it. She said we got the pilot program going on, we got 20 undertakers signed up for it, we got 33 doctors.

We made a little phone call over here to the Division of Healing Arts; they've got 14,500 doctors, and they've got 33 online. That's really going to help us.

And she did make the statement, she said the 24-hour rule is for transportation of a body before a common carrier. She's got --

MR. OTTO: Well, I can show her --

MR. REINHARD: You need to go show her. Honest to God.

MR. OTTO: I have. I have, but it's their own Health Department regulations. The third paragraph of that -- of that one that talks about the alternative doctor's letter. The alternative doctor's letter's in paragraph two -- paragraph three. It says
a crematory can't do a body unless you have one of
these two things. So anyway, but good news, again,
whether they do something or not.

We -- we said, well, what will our
association do if we don't get some kind of relief.
Well, we'll look at legislation this year to try to do
something. We will look at pressuring other government
officials.

If necessary, and our Board approves of
it, we will look at possible litigation; because the
statute that says you can get a death certificate in
the first 24 hours from your local registrar, or as
designated by him or her, is still on the books. They
didn't take that one off. So how can they just do a
policy that says sorry you can't do this anymore when
it's in the legislation.

So we got a -- again, we got to give
them a chance. We actually talked to people that I
believe understood there was a problem and care about
it. So you got to give them a chance to try to see
what they can come up with. But if we don't come up
with a solution, I think our association is going to
fight that vigorously, at least as it's proposed.

The NPS, I was in Texas yesterday. The
big question, of course, still is the orphan contracts.
The SDR and the attorney for the SDR have not yet filed their application as to how they're going to handle the orphan contracts.

But in two conversations that we've had -- they're tired of me showing up and saying things down there. Is that a shock to anyone? So they're now having phone conferences before the status conference to find out what it is I'm going to complain about.

But we were told in the phone conference, and they reiterated this at the hearing, that here's what their plan is for the orphan contracts -- although keep in mind, until they actually file it, it's not official. You can't -- but this is what their plan is:

If a contract is truly orphaned, which means no insurance attached to it, and they can't figure out a way to attach insurance to it -- and right now that's about 7,300 contracts, all of which are in Missouri almost, except for like a dozen in other states -- money that was paid to the receivership between the instigation of court supervision in May, or whenever that was, and the effective date of the liquidation order, which was the end of October, that period of time, May, June, July, August, September, October, six or seven months, the money that the
consumers paid on installment orphaned contracts where they keep making payments is gone. They are not going to give that back. They just flushed it down the toilet.

On all money received on installment payment orphaned contracts after the liquidation order, they're putting that into an escrow account that earns interest, and at the time of death, whatever funeral home does the funeral or the family will get the money returned to them that was put into the escrow account without any interest. The interest will be kept by the SDR.

I said that if and when that is ever the official position, we've got three problems with that. One, the only reason those people paid those installment contracts during that period between May and October, or whenever it was exactly, is because the SDR told them to. So here's the SDR saying -- the Special Deputy Receiver saying, Pay the money in, and then saying, Sorry, it's gone; you can't have it back.

Secondly, if they're earning -- if they're putting that money in an escrow account for years and earning interest on it, why shouldn't the consumer get that interest? Why is that going to the SDR?
And then I also have a philosophical problem with them continuing to collect money from consumers on a contractual obligation that they don't intend to fulfill. Because why are these consumers paying the money? They're paying the money because they have a contract that says if I pay you money, you give me a funeral. And so what they're going to say in the future is keep paying me the money, but we're not going to give you the funeral. You'll get your money back, no interest. That's kind of weird.

But until they actually file that, there's nothing you can -- there's nothing to object about. The attorney for the SDR said he thought that this would be ready to be filed in the next week or so. Donna Garrett said she thought it would be a couple months and may not be until the next status review conference, which is in January; which I pointed out that, sorry, those proof of claim forms are due in January. You really can't fill out the proof of claim forms properly unless you know how you're handling the orphan contracts, so I'm just going to have to -- so that was it.

Other than that, according to the SDR, everything is running well and everybody's happy. It's taking them an average of 60 days to pay the contracts.
They've received about -- they've gotten somewhere around twenty million dollars in settlements from reinsurance companies with some more on the way. There aren't going to be any distributions of money to any creditors this year because it's all going to be taken up by -- by expenses and then by -- if there's any left over, payments to the State Guaranty Fund Associations. So that is an update on that.

And then the last thing is, everyone got a copy of my very, very long e-mail that just raised issues. I won't go over all those; you don't have time. But I've run into two basic issues on the implementation of 436 that I think at some point needs to be addressed. And I think Bill Stalter's suggestion in his letter of maybe having an attorney working group to come up with some proposed rules for you guys to consider, I think is probably a good one.

The first one has to do with joint accounts. And interestingly enough, this has nothing to do with Senate Bill 1, really, but the banks for the first time have read Chapter 436 and are complaining about stuff that was passed in 1982 and saying they can't follow the law. I wish they would have said that during the legislative process, but they're saying that now.
And so joint accounts may, as the law stands right now, as it's been finally read by the banks, may not be a viable preneed alternative for people. And that is clearly nobody's intent; everybody wanted to keep joint accounts. But the banks have for the first time read Chapter 436 and are -- some of them are telling me they can't follow it. And even if they could, they don't want to get involved in any disputes.

The other one has to do with insurance assignments that we've talked about in the past, and the fact that what happens if a consumer has a preexisting insurance assignment; no money changes hands; but for whatever reason, because of DFS or something, they need to do a preneed contract; with that, collect the $36. How are you going to report that on the report a year from now?

Arguably -- I hope this isn't the case, because I hope we can come up with some rules to change this. Arguably, if you say -- if between now and October, what is it, 31st, 2010, if five consumers came in with five different insurance policies: Two from MetLife, one from Prudential, one from Old Dominion, and one from Lincoln Mutual -- not Lincoln Memorial, Lincoln Mutual, they've changed their name, bless their hearts, good reason -- and assigned those policies to
you, and you wrote contracts, you would have to state the value of all those contracts; but you can't be the owners, the funeral home, so they're not going to tell you what -- may not tell you what the value of those contracts are.

Plus, you've got to get each insurance company to sign off on your annual report. So that would be circulating your annual report to five different insurance companies, one of which you may not even know if it's in business anymore, to have them sign off on your report.

So I guess that also dovetails with the joint account problem. What's a funeral home -- seller to do a year from now; they've been selling joint accounts all year, or they've been selling -- or they've been accepting insurance assignments all year. Two weeks to go before the report's due, they take it to their bank and their bank says, I'm not signing that. What do we do? I don't know.

And so if you get an opportunity to read that rambling e-mail of mine, they're mostly just questions that I don't have answers to that I was just bringing for people's consideration. But the idea of having some kind of working group to go through those and maybe come up with some ideas just sounds like a
good one, so that's really it for us.

I still don't think you should charge $36 for those insurance assignments though if no other money changes hands. I lost that battle last meeting, but I'm going to mention it again 'cause I don't think that's -- I don't think that's good. And I'm getting a lot of complaints about that one, let me tell you. That's the one -- one of the biggest complaints I've got is, That consumer's not giving me a dime, they're just bringing in the insurance policy; why do I have to -- if I have to do a contract, why do I have to collect 36 bucks?

so if you ever get the opportunity to revisit that issue, I'd sure encourage you to do so.

CHAIRMAN VERNON: Okay.

MS. DUNN: Could we just ask you to give your names for the court reporter please?

MR. O'SULLIVAN: Kevin O'Sullivan.

MS. O'SULLIVAN: Ellen O'Sullivan.

MR. MAHN: Don, we've got kind of a question for you.

MR. OTTO: Sure.

MR. MAHN: Say a funeral home decides not to get a seller license; they're going to use MFT under your seller license, but they're going to --
they're not doing joint accounts or their own trust or insurance. But someone walks into their funeral home and they are going to accept an insurance policy for future expenses of a funeral. They do up a contract with the family.

So if they're not a seller, then will that be the responsibility of MFT of any legalities or any issues that may go on with that since you're the representation of that funeral home for a seller license?

MR. OTTO: Well, if the funeral home just accepts an assignment and signs a contract in the funeral home's name, I think they're going to have to have a seller's license to do that. I believe what Missouri Funeral Trust -- or any trust for that matter -- could do is not sell that as an insurance-funded preneed contract, but sell that as a trust-funded preneed contract and put the insurance policy into the trust.

MR. MAHN: In that trust?

MR. OTTO: Yes, as a trust asset.

MR. MAHN: So make MFT the beneficiary?

MR. OTTO: Make MFT the beneficiary or assignee of that, and then that would be a trust asset. I believe that is perfectly permissible and that would
then be listed as a trust-fund preneed contract and
solve some of those problems. But that doesn't help
the funeral home that doesn't want to deal with trusts
or us. And I really don't feel --

MR. MAHN: No. I'm not asking about the
funeral home that doesn't want to deal with you or --

MR. OTTO: Or any trust.

MR. MAHN: I'm talking about a funeral
home that is dealing --

MR. OTTO: Yeah.

MR. MAHN: -- with you and you're their
seller. They don't have a seller's license. But
naturally, they're going to have somebody come in with
an insurance policy that they want to be put in a file,
you know, there for their future funeral. And, you
know, in the event they do that, then if you're the
seller, the responsibility would --

MR. OTTO: It would fall on MFT to
handle --

MR. MAHN: Right.

MR. OTTO: -- all the reporting of that.

Yes. And I believe that is perfectly permissible under
the law, and we intend to do that for funeral homes
that are MFT members.

MR. MAHN: Okay. And if they're not
going to make MFT the beneficiary, then they need to have a seller's license is what you're saying?

MR. OTTO: Yeah. Yeah. One of the -- I don't know if this is a mistake in Chapter 436 when it was written or if this was the intent. One of the problems that this doesn't solve -- this helps solve that problem, but it may not cover everything.

Under an insurance-funded preneed contract, the funeral home cannot be the owner of the policy, because it says the only people that can be bene-- the only people that can be owners of the policy are either the purchaser or the beneficiary. And where that word "beneficiary" is, it's not talking about beneficiary of the insurance policy, it's talking about beneficiary of the preneed contract.

So that -- in that circumstance, the funeral home can never be the owner I don't think. If somebody wants to correct me -- would you agree with that one?

MS. EULER: I agree with that one.

MR. OTTO: Okay. You may not agree with everything, but you agree with that one. Okay, good. I don't think the funeral home can be the owner. Now, that causes family services problems. That causes problems with the insurance company.
becoming -- getting informal -- I mean, the funeral
home getting money from the insurance company.

I think one way around that potentially
is, again, to use a trust-funded insurance contract
where that insurance policy is one of the assets of the
trust. Of course, it couldn't be a term life policy
because that's specifically excluded as being a trust
asset -- or an asset for a trust. But if it's not a
term life policy, I think you can put that in the
trust; and that solves a lot, not every problem, but a
lot of problems.

CHAIRMAN VERNON: So your thought there
was that if you take the insurance policy, skipping
over some of the other stuff, and you put it in your
trust, that then -- just like an irrevocable clause or
something to the trust -- then exempts it from the
family services?

MR. OTTO: Well, unfortunately, it
sounds like from -- and this is in my e-mail as well,
it probably -- it may depend on what family services
people you're dealing with.

CHAIRMAN VERNON: I understand that.

MR. OTTO: Yeah. Some may be --

MS. EULER: And Don, we've got a call

into FSD to ask those questions, and we have asked
those questions.

I don't think we've gotten a response back, have we.

CHAIRMAN VERNON: (Shook head.)

MR. OTTO: Now, if someone there tells me I'm wrong and that that doesn't work, then we'll have to think of something else. And that would really require -- I mean, we had talked earlier about us going back to the legislature this year to clean up some 436 language.

I'm kind of leaning right now as to waiting until a year from now; not this session, but next session, because you can't -- I don't think you can keep going back there every single year doing stuff; and we won't know all of the problems until a year from now when people are trying to fill out those reports. So it might be better to give them a break, especially if we have to go over there on death certificates this year. Maybe give them a break from preneed this year, and then go back next year to clear up some of these problems.

Now, I think that 436 is worded vaguely enough on the -- on this issue that you could come up with some rules on insurance assignments that might solve the problem. For example, I think what would be
great for a lot of the small funeral homes and ones
that don't want to use a trust is if you came up with a
rule that said if it's a preexisting -- I don't know
how to word it exactly. You got to be careful somebody
tries -- doesn't try to get around it.

But if it's a preexisting insurance
policy, not one that was sold as part of this contract
and no additional money changes hands other than the
$36 if you keep that, that here's how you report that
every year: You say, Contract 1115, funded by an
assignment from Prudential Life Insurance, policy
number 612, period. And that satisfies the Board.

Now, that may not satisfy DFS on
everything, but at least that would take care of the
nasty reporting requirements for insurance assignments
which again, it's kind of -- although MFT is happy to
offer that service to its consumer -- to its -- to its
members, it's kind of silly to have to use a trust
vehicle just for a reporting requirement. That doesn't
seem fair.

MS. EULER: Well, I think that as this
process goes on, that's one of the things that the
Board will need to look at, because this whole
regulation of preneed contracts at -- under the
seller's umbrella for joint accounts and insurance is
new. And I think we'll have to -- it'll be a learning
process. And the rules will have to be made as we go
along.

MR. OTTO: Well, I think there's a lot
of funeral homes out there that would not be sellers at
all, but for accepting insurance assignments.

MS. EULER: Yeah.

MR. OTTO: And if there was a way to
give them some relief so they weren't forced to use
MFT -- I mean, I'm happy if they want to use us; that's
a wonderful thing -- but nobody should be forced to use
us or any trust just because of a reporting requirement
or something that maybe could be taken care of.

And the other thing I didn't mention
either in that is that I'm getting a lot -- several
questions on which we discussed earlier, is the finance
charge issue. One, can you charge finance charges.
And number two, if you can, does it all have to be put
in the trust.

MS. EULER: And we --

MR. OTTO: And I puned it.

MS. EULER: Well, we have been looking
at that issue as well. I think there's some real
question as to whether finance charges are allowed at
all. But we will look at that and report back to the
Board, so we don't need to go over that again today.

MR. OTTO: No. No. I'm just saying I'm getting a lot of questions on it.

MR. KRAUS: Don, how do you suggest that reporting requirement be taken care of?

MR. OTTO: Well, again, you want to make sure that you write it so that it's -- somebody doesn't use subterfuge in selling an insurance policy as part of a preneed contract. But basically, if all that's being done is a consumer is assigning a preexisting insurance policy for -- and no additional money's changing hands, you don't have the requirement that the value of the life insurance policy be stated. Or all those other requirements -- a lot of all those other requirements that are under the insurance funded section of the report.

And most importantly that the insurance company doesn't have to sign it. Because I -- Prudential won't. I guarantee you. I'll bet -- I got five dollars here if anybody can get Prudential to sign a report.

MR. KRAUS: And do you think that any of the language in Senate Bill 1 that relates to either trust funds being contracts or insurance funded restricts in any way the use of that insurance policy
as an asset of a trust-funded preneed contract?

MR. OTTO: Well, I think that's specifically allowed as long as it's not term, because it specifically says in there the trust shall not have a term life policy.

MR. KRAUS: So you think that explicitly allows --

MR. OTTO: I think that explicitly allows a nonterm policy --

MR. KRAUS: Or implicitly allows.

MR. OTTO: Implicitly would be the right word -- allows a nonterm policy. I think so.

MS. EULER: Can I ask a question before we move on? Do you get any sort of -- do the funeral homes or the sellers get any report from the insurance companies, or can you get a report from the insurance companies saying, These are your policies?

MR. LAKIN: Some insurance companies.

MR. OTTO: Oh, yeah. Some you can, yes, if you're the owner.

MR. LAKIN: Big insurance companies will not do that though. Prudential, New York Life, those type companies won't even give you the information how much the policy's worth.

MS. EULER: Okay.
MS. RUSSELL: Is that the word "issuing", I wonder if that will take care of that on page 29, line 79. The name and address of each insurance company issuing insurance. The word "issuing" would take away the problem with the assignments, wouldn't it? Because it's really not it wasn't intended for the assignments to have to comply on the annual reporting on the face values and everything. It's for the ones that were issuing it in conjunction with the preneed contract.

Sharon, what do you think?

MS. EULER: I'm sorry?

MS. RUSSELL: Talking about the word "issuing" on --

MS. EULER: What page are you on?

MS. RUSSELL: 29.

MR. MAHN: Don, while they look --

MR. MCCULLOCH: The thing people have to understand is there's two different types of policies here.

MS. RUSSELL: Right.

MR. MCCULLOCH: There's ones that just us as individuals go out and buy from our State Farm guy. And then there's these ones that are specifically for preneed. And that's what you're trying to say.
Right?

MS. RUSSELL: Yes.

MR. MCCULLOCH: There's a big difference there.

MS. RUSSELL: The difference between an assignment and an actual insurance funded.

MR. MCCULLOCH: Yes.

MS. RUSSELL: Yes. That's what we would call then. Two different --

MR. MCCULLOCH: Yeah. Our preneed funded --

MS. RUSSELL: Right.

MR. MCCULLOCH: -- by insurance.

MR. OTTO: Arguably, one possibility is to have a rule that specifically says that an insurance assignment, even if it triggers the need for a 436 contract, is not an insurance-funded contract as defined in here.

MS. RUSSELL: I think it says that because it says, The name and address of each insurance company issuing. The word "issuing" insurance to fund a preneed contract; I think that's pretty clear.

MR. MCCULLOCH: Because those other companies aren't issuing it to fund a preneed contract.

MS. RUSSELL: No, they're not issuing
MR. MCCULLOCH: Exactly.

MR. OTTO: Well, that's why I think a rule -- I think that's vague enough that a rule is needed.

MR. MCCULLOCH: That's the difference right there.

MS. RUSSELL: The word "issuing".

MR. MCCULLOCH: Yeah.

MR. STALTER: It really comes down to intent.

MR. MCCULLOCH: Yeah, the intent.

MS. RUSSELL: Sharon, you're an attorney. What would you think?

MS. EULER: I think that we should take a more close look at this and get back to the Board in December.

MR. OTTO: That's what I was getting at is I think the language is vague enough that the Board could come up with a rule to solve at least the reporting requirement problem.

MR. MAHN: Don, did you think that the wording in there -- maybe I misunderstood what you said -- that the funeral home, somebody brings in an insurance policy, cannot be made beneficiary; is that
what you said?

MR. OTTO: Well, if -- this gets into the definitions; if that is defined as an insurance-funded preneed contract. That's what we were just talking about that Sharon says she needs to look into, but if it's defined, it says on page

MS. EULER: 24.

MR. OTTO: Is it 24?

MS. EULER: In sub seven, The purchaser or beneficiary shall be the owner, but the seller or provider can be named as the beneficiary of the life insurance policy.

MR. MAHN: Well, the funeral home is the provider. They can be the beneficiary.

MR. OTTO: They can be the beneficiary, oh, yeah, that's no problem. But depending on how you read this, the funeral home could not be the owner of the policy.

MS. EULER: Correct.

MS. RUSSELL: Well, except on -- is that true, Sharon --

MS. EULER: Yes.

MS. RUSSELL: -- on line 39 where it says, An insurance-funded preneed contract shall be valid and enforceable only if the seller or provider is
named as the beneficiary or is assignee of the life insurance policy.

MS. EULER: Right, not the owner.

MS. RUSSELL: Not the owner.

MS. EULER: The purchaser or the beneficiary of the preneed contract shall be the owner.

CHAIRMAN VERNON: Wouldn't the company that --

MR. MCCULLOCH: Why would you want those to be brought into this anyway? Why would you want that State Farm policy to be brought into this anyway? Somebody just goes out and buys it and they come in and they say, Here I want to make you the -- why do you want to drag those into this anyway?

MR. LAKIN: That's what I want to know.

MS. RUSSELL: The law requires it.

MS. EULER: Yeah.

MR. MCCULLOCH: I don't think it does. I don't think that's what we're debating here. And why would you want to try to make an argument that it does when --

MS. EULER: I'm not arguing one way or the other.

MR. MCCULLOCH: -- it clearly shouldn't?

MS. EULER: I'm saying that this is an
issue that Warren's going to need to look at.

MR. MAHN: We're just talking about the
beneficiary.

MR. OTTO: And one thing, I mean --

MR. MAHN: We're talking about the
beneficiary.

MS. EULER: The life insurance
beneficiary.

MR. MAHN: Who would be the -- who could
be the beneficiary?

MR. MCCULLOCH: Whoever that person put
on there.

MR. MAHN: Right. But earlier we
interpreted that being said, at least I did, as that
the funeral couldn't be made beneficiary. We
interpreted that earlier from something Don said.

MR. OTTO: No. No. Yeah. It's the
owner. If I misspoke, it's my fault. It's the owner.

MR. STALTER: That's what I heard. The
funeral director -- or funeral home can't be the owner
here in 436.

MR. MAHN: You can be a beneficiary.

MS. EULER: Right.

MR. STALTER: You can be a beneficiary,
right.
MR. LAKIN: Then that triggers family services as the owner, because if the beneficiary is John Doe and he's the owner, he can cash it in at any time.

MS. EULER: That's right.

MR. OTTO: Something I just throw out there is if the Board came up with a rule that said a funeral contract that is backed by an insurance assignment that is like what you're calling the State Farm thing -- you know, I don't know how to word it properly --

MS. EULER: Well, Don, if you want to write up a rule and send it over, we'll --

MR. OTTO: I think the idea of getting several attorneys together to hash it out is a good one, because I --

MS. EULER: Yeah. Well, and we need to talk with the FSD counsel too, and we haven't heard back from them.

MR. LAKIN: The problem with that, Sharon, is every county has a different rule to go by.

MS. EULER: Right. But if DLS issues a memo saying this is what it's going to be, then --

MR. OTTO: Yeah. That makes it tough to get a rule, but just, again, if you could come up with
a language that you were satisfied with that said an
insurance assignment is not a 436 insurance-funded
contract, who's going to object to it? Who's going to
sue you?

MS. EULED: Or to clarify when it is and
when it isn't.

MR. OTTO: Yeah. I mean, that bene-- I
mean, if it benefits everybody, who's going to
challenge it?

MS. EULED: Right.

CHAIRMAN VERNON: In one of the comments
of the issuing Darlene was talking about, wouldn't --
and just another thought extending the issuing, the
company that is issuing those policies would also have
an arrangement with that seller. Right?

MR. OTTO: Well, on new policies.

CHAIRMAN VERNON: But that's what we're
talking about anyway.

MR. OTTO: Well, I was talking about --
my big concern is the old -- 15-year-old Old Dominion
life insurance policy that somebody brings in and wants
to assign because DFS tells them they got to get rid of
it.

CHAIRMAN VERNON: Right.

MR. OTTO: How do you report that a year
from now?

CHAIRMAN VERNON: But just reporting it as it's on the list, isn't necessarily the big deal of the issuing, your seller, your arrangement, and all that. That's completely separate.

MR. OTTO: That's why I think there's enough wiggle room in the statute that you can come up with some rules that I think solves not every problem, but a lot of them.

CHAIRMAN VERNON: But in your scenario of the State Farm -- because one of the questions we're going to probably talk about here later is somebody brings in the State Farm policy, you actually do sit down and you spec everything about the preneed with them even though it's nonguaranteed; is that a preneed?

MR. OTTO: I think arg-- I think the way it's worded right now, yeah.

CHAIRMAN VERNON: That's what I would say too.

MR. MCCULLOCH: I would disagree with you guys.

MR. OTTO: I think there's some room --

MS. EULER: If you enter into a preneed contract --

MR. OTTO: But I think there's some --
MR. MCCULLOCH: If you don't write it down.

CHAIRMAN VERNON: No, I said they did.

MR. MCCULLOCH: Oh, I'm sorry.

CHAIRMAN VERNON: I said they did.

MR. OTTO: Yeah.

MR. MCCULLOCH: Well, if they do that, yes.

MS. EULER: If you enter into a preneed contract, then yes. If they just preplan, then no.

MR. STALTER: If DFS says, You need to get that off of your assets; you need to do something with it.

MS. EULER: Right. I know.

MR. STALTER: What is my compensation as a funeral director for taking it?

MS. EULER: I know.

MR. STALTER: None.

MS. EULER: That's why we need to get ahold of FSD, and they have not been as prompt in returning our inquiry as they might have been.

MR. OTTO: I really don't -- I mean, I do -- I do care what the rule is, but I almost really don't care what the rule is, if I just knew what the rule is.
MS. EULER: Yeah.

MR. OTTO: If I just knew what the rule was, maybe I could deal with it, but I don't know what the rule is.

MS. EULER: The rule is (indicating).

So, yeah, we'll take a look at that.

MR. BAKER: Martin, I have a que-- I guess this is for Sharon. Bob Baker.

Whenever we're talking about the -- the -- whatever the new acronym is, the DFS, I'm going to call it --

MS. EULER: FSD.

MR. BAKER: Okay. In your letter -- there's two things that happened. We deal with several different counties.

MS. EULER: Uh-huh.

MR. BAKER: Some write contracts, some doesn't.

MS. EULER: Right.

MR. BAKER: Could we get clarification on what triggers a contract? And then also get the answer on who is to be the owner of the policy in order to reduce the assets to qualify.

MS. EULER: Those are the kinds of questions we've asked --
MR. BAKER: You've asked, okay.

MS. EULER: Yeah.

MR. OTTO: The other thing that's hanging out there that maybe you can get an answer from -- I don't know if you can or maybe you don't want to touch it -- is that old Attorney General's opinion.

MS. EULER: Which one?

MR. OTTO: Darlene, what's that old --

MS. RUSSELL: It's not an opinion --

MR. OTTO: No, it's not an official opinion.

MS. RUSSELL: -- it's a Board issue, and I shared this with Becky. Let me see if I can find a copy of it.

MR. OTTO: I don't think we're going to have to --

MS. RUSSELL: Where the Board took the position that an insurance assignment -- if you took an insurance assignment, you were the owner -- the funeral home was the owner, that it constituted a preneed contract. It's been going on since Senate Bill 644, 1982. Right, Don? I mean, so it's not a new issue, you know, so --

MR. LAKIN: But it's an issue -- when
the funeral home can't be the owner, it's an issue with
family services.

MS. RUSSELL: Yes. That is -- that is a
big issue. And it was called, Checklist for preneed
contract when the consideration for the contract is the
assignment of a contract of insurance.

MS. DUNN: Darlene, can we make a copy
of that so we can put it with the record?

MS. RUSSELL: Sure. I don't have a good
one with me. Do you have it in your office? This
one's missing --

CHAIRMAN VERNON: Okay. While they're
thinking about that, Mr. Stalter, did you want to
address us in regard to this letter?

MR. STALTER: Actually, it's kind of a
follow-up. Maybe just the premises that people have of
Don and I interpreting things differently, but it would
behoove us if we could then bring -- I guess go ahead
and call it an attorney's forum; kind of work through
the interpretation, at least come up with some common
ground. That's the purpose.

(Meeting interrupted)

CHAIRMAN VERNON: Come on in, guys.

There's a couple of chairs over there against the wall.

Start all over again.
MR. STATLER: Okay. I'm running into a lot of the same problems Don is. And we've talked about joint accounts, we've talked about -- there's plenty of advice that funeral directors are wanting on how to, I guess, comply with SB 1. Frankly, you know, it's not clear. We hear different things. We each sent e-mails or contacts with Becky, Sharon; we hear different things. So I'm trying to get to a point where we can -- Becky, I know.

MS. DUNN: I haven't responded --

MR. STALTER: You're copied.

MS. DUNN: -- so I can't -- so don't put me in for a response yet.

MR. STALTER: Anyway, we need to facilitate some way for us all to get on the same page. And if attorneys can't get on the same page, you know, the clients aren't going to hear the same story. That's one issue.

The other issue is -- I agree -- this joint account contract issue is a problem. And it -- people don't know how to comply with it. They -- you know, they have a perception of how it should work, but it's not working that way. And new folks -- the O'Sullivans are here -- that purpose -- it was perceived that the joint account contract was going to
give an easy way for people to comply, but it doesn't work. It doesn't work with the intent -- it doesn't give them an easy way out. So I mean, you need to hear from some of these other folks who are stepping into that.

And part of the story is we've been doing it that way for years and the Board says it's all right to do it that way. What we're going to find out when we go in there, a lot of folks do not have the right paper in place. The money's there, they've put every dime in there, but the paper is bad. You know, are we going to apply this law by the letter of the law? And if we do, a lot of people get in trouble, but they really haven't done anything wrong, other than use the wrong paper.

CHAIRMAN VERNON: Okay.

MR. STALTER: And at some point we can talk about alternatives, but the Board's got to step in and help us with that. We'll work with the association; enough said.

CHAIRMAN VERNON: Do they want -- is that who -- do they want to address this issue?

MR. STALTER: I think -- do y'all have anything --

MS. O'SULLIVAN: We just want to learn
how to do it right.

MR. STATLER: That's what I'm saying.

There are a lot of people like that.

MS. O'SULLIVAN: Everything's there, we just --

MR. STALTER: And basically, it said for them to come to the webpage or something like that; it doesn't work. There has to be some way -- some folks just -- you know, how do I have to do it.

CHAIRMAN VERNON: Yes, sir.

MR. LAKIN: Everything would've been fine if the banks wouldn't have read the old law 10 -- 15 years later. And then, see, if we wouldn't have had to go to the banks to begin with, with the new law, they were -- they were going along with everything that we were doing in the past. Now, all at once, there isn't a bank within 50 miles of me that even wants to talk to me about that.

And I don't know what -- I've had three families that I've told, you know, I'm not in the preneed business right now. I may be by the first of the year. But those three families have -- and that is not right for my business. That is not fair to me as a funeral director that I've got to tell them, I -- and you know, half the other funeral directors don't even
know the law's been changed. Oh, yeah, come on over, you know. And this is bad. I talked to one funeral director, he told people come on over, we'll take care of you. Now, how -- you know.

I pay a license here. I don't want to get off on the license that I got to pay, but you got to pay a license to be in business. And then I tell people just go someplace else and that funeral director over there's just, Oh, yeah, yeah; we'll take it. He don't know a damn thing about the law. Don't -- didn't even know the law changed. And the banks sure found out the law changed.

CHAIRMAN VERNON: That's true.

MR. LAKIN: And it's a problem for little funeral directors. If you sell one-hundred fifty, two-hundred thousand dollars worth of preneed insurance a year, yeah.

It's -- or in preneed, not insurance, preneed, it's great. You can afford to trust; you do that. But you're sitting down in a little town with 1,600 people, you sell $3,000 -- or $30,000 worth a year, and you got to comply with this thing, it's absolutely ludicrous.

MR. OTTO: Hey, Don, can I sign you up on the continuing education committee?

MS. RUSSELL: There's just so much
confusion out there right now. Every-- I mean, everybody's hearing different things, and I'm just really feeling sorry for a lot of funeral homes that don't understand what's going on. And I mean, here we're talking, and we've just changed our -- some of the direction of previous conversations, you know, so what are they supposed to do?

MR. REINHARD: There's a man right there that helped pass the law. Talk to him about it, you know.

REPRESENTATIVE MEADOWS: Thank you.

MR. REINHARD: Well, I just want to give credit where credit's due.

REPRESENTATIVE MEADOWS: I seem to recall one funeral director in the room told me this was going to be a can of worms.

MR. LAKIN: Said that for the last 15, 20 years, and it is.

REPRESENTATIVE MEADOWS: Yes, sir.

MR. MAHN: Hey, Bill, what's the big problem that you're seeing? Is it the contract that the funeral homes are currently using in order to put money into a joint account?

MR. STALTER: You know, two things. I think if they're really going to exclude the assets,
they have to do it for the benefit of --

MR. MAHN: Right.

MR. STALTER: -- or it's not really a joint account.

MR. MAHN: Uh-huh.

MR. STALTER: And the other thing is just basically that they're picking up, I'd say, more like a statement of goods and services; some kind of form that wasn't intended for that purpose.

MR. MAHN: Like a Peachtree form or --

MR. STALTER: Peachtree. Also I've heard them say, I just used the MPS contract and whited it out.

MR. MAHN: Right. They used something.

MR. STALTER: I know they've used some of ours and just whited it out too, so, you know.

MR. MAHN: Right.

MR. STALTER: But basically, what you're going to see is a contract form that probably references trust funded --

MR. MAHN: Right.

MR. STALTER: -- and then it's really going into a joint account.

MR. MAHN: And you're saying come up with some sort of form for joint accounts that fits the
MR. STALTER: And what we said before is that even under the old law, if it was joint accounts, you still had to reference that funding. You know, there was a contract form required for that. It spelled out their rights, 100 percent was supposed to go in there.

You know, they had some rights as far as you knew, kind of, where the administrative costs were if you cancelled; and otherwise, you were supposed to have gotten everything back. But if we go in there, what we're going to see are just all kinds of things.

MR. MAHN: Right.

MR. REINHARD: I've got a question. Representative Meadows; you came a little late and Don Otto had addressed this. You know, he was talking about the association, you know, going back in and trying to -- you know, coming to you all to open it back up, maybe not this year but a year from now, but can we -- I mean, like, if we get a list of what we think's troublesome to us, can we bring it to you all to --

REPRESENTATIVE MEADOWS: Oh, I would think so, sure.

MR. REINHARD: -- go back to it to help
us out?

REPRESENTATIVE MEADOWS: You know, to be quite honest with you, I'm getting a lot of phone calls too. A lot of the funeral directors -- several funeral directors around the state are calling me. And they're saying, well, what is it; like, if I own three or four funeral homes, do I just license the one, do I have to license them all. You know, there's a lot of, I think, misconception. There's different folks that are interpreting the law the wrong way.

And, yeah, I know that you guys are going to have to do whatever you are going to have to do to get your arms around it; and I think that if -- that Representative Watson and I would be more than willing to sit down and try to get you some clear on which way you all want to go with it.

And again, I got to caution you -- and God bless you all, but sometimes when I get three or four funeral directors in one room, not everybody agrees. Am I right? So I mean, there again, nothing against your profession, but I understand and I feel -- and that's where we were with the whole thing last year. There's a lot of disagreement and we were trying to tweak it, turn it this way and turn it that way, and -- but yeah. But I don't think there would be any
disagreement to try to clean something up.

MR. MAHN: Do you think it would be

better to let it, like Don suggested, let it operate

for a year, see what the bugs are, and then --

REPRESENTATIVE MEADOWS: And then do it,

yeah.

MR. MAHN: -- instead of just trying to

fix a few things --

REPRESENTATIVE MEADOWS: I'll be honest

with you. There may be some folks that may be trying

to jump out there to try to change some things right

from the get go. I don't think that that's necessary

that we do that. I would hope that as a group we can

maybe give a year --

MR. MAHN: Right.

REPRESENTATIVE MEADOWS: -- and give it

more time to iron the kinks out. Then again, I

understand with what Don's going through and a lot of

folks, but again, it's the misconceptions that are out

there. I think there's a lot of different people that

are interpreting the law the way that they want to

interpret the law; and that is what's causing the

problems I believe.

MR. MAHN: And I think Bill's got a good

point. There are some things, between the joint
accounts and owner -- or insurance policies, there's
some things in there that are really going to have
people messed up for a while. If we knew, we could
just go in and fix those things, it would be great, but
then what else is people going to gripe about and how
are they going to want it fixed. And do we want to do
like Don said and operate it for a year and see how it
works, you know.

MR. OTTO: And let the record reflect
that Don Lakin and I agree 100 percent on a lot of this
because a lot of the problem isn't in what
Representative Meadows --

MR. LAKIN: Well, now, let's wait.

Let's make this clear again.

MR. OTTO: Yeah, but a lot of the
problem is not the new law, it's the banks have read
the old law for the first time.

MR. LAKIN: That's right. That's right.

MR. OTTO: Because we didn't change
hardly any of the joint account language.

MR. LAKIN: No, no.

MR. OTTO: But now they've read it for
the first time --

MR. LAKIN: And they're scared to death
of it.
MR. OTTO: Yeah. I have banks telling me, Oh, we're not going to honor that irrevocability clause that's in your preneed contract because we have to follow the UCC regulations on how bank deposits are handled. And if -- and I go, Well, that's been the law for 27 years.

MS. EULER: Well, and I will --

MR. OTTO: And they say, Well, we didn't know that.

MS. EULER: I will tell you that Division of Finance is taking a different approach now than they have in the past. Fran is actively working on this with the banks.

MR. OTTO: Because we sat there with --

MR. LAKIN: There's a difference between state banks and federal banks too.

MS. EULER: Right.

MR. LAKIN: There's a big difference between that and this preneed.

MS. EULER: And we can't do anything with the national banks, but Division of Finance has Senate Bill 1 and is working with their banks.

MR. OTTO: That's great because we sat there all last summer with the Division of Finance person there and kept saying, Is this okay, is this...
okay, and we didn't hear a single problem.

MS. EULER: Uh-huh.

MR. OTTO: And the banking lobbyist was there and the first time I heard there was a problem -- what was it, was it Thursday morning that Senate Bill 1 got passed at 8:00 a.m.? Something like that, wasn't it? Wednesday afternoon at 4:30, the banking lobbyist comes up to me and says, You know, I think the banks may have some problems with some of this language. It was like, A little late.

MS. EULER: Yeah. And some of the issues that the banks are now raising have to do with the Patriot Act and there's nothing we can do about that.

MR. OTTO: Well, yeah, that's a whole other matter.

MS. EULER: As much as Don would like me to fix the Patriot Act, I don't quite have that power yet.

MR. LAKIN: I thought you did have.

MS. EULER: I know, and I appreciate your confidence in us.

CHAIRMAN VERNON: I would ask Bill, Don, attorneys, Mark, not really including Sharon and Earl in the thought, when you speak of attorneys getting
together and hashing out some of this, what is your real scope of that? What is -- how do you see that?
Are you seeing -- I mean, because obviously you guys could do that from that perspective and just go do it and come back to the Board and whatever, but how are you seeing that?

MR. STALTER: You mean how to go about it?

CHAIRMAN VERNON: Yeah.

MR. STALTER: I think the first thing is that basically list your issues. Everybody kind of come to a consensus of issues, and I think you could bring -- and whoever wants to participate in this together, but we got to have Sharon and Earl as part of the process. So, I mean, you have to figure out how to facilitate that with the open meeting requirements and so forth. But it is -- if you're hearing about people out there trying to interpret it differently, we need to get those people into this process so that, you know.

And in essence, that consensus group will then bounce things off and basically it -- you know, if there's some things way off the wall, you know, that's not -- we're looking to find a way to make this work until, you know, a year from now when we're
talking about a consensus bill. Because truly, we need

to know what's wrong with this one and all have kind of
an agreement about how best to work with it. I agree;
it's really -- we can't get it done in three months.

It'll take a year.

We also -- but the important issue here

is -- that we haven't even touched on, is that

reporting. Are you all requiring reporting on existing

trusts? How are you going to do that? Because

that's -- you know, I've heard different things

about -- are you going to require that?

MR. REINHARD: Martin, I would make a

motion that I -- and the motion would be, like, the

Chairman appoint a committee of, like, Bill, and Don,
you know, maybe a Board member, and Earl, Sharon, and

Mark, and you know, some people that could sit down and

have the legal minds to kind of figure this out.

Because, you know, we're trying to take

care of business --

CHAIRMAN VERNON: Sure.

MR. REINHARD: -- and we're trying to

figure this out ourselves.

CHAIRMAN VERNON: Hold that thought for

one second because if --

MR. KRAUS: If you're talking about a
series of meetings over time with counsel and other folks interested in these matters, then that's along the lines of the meetings that happened summer before last when this was all developed. That's going to involve a time commitment that I, representing all the 39 boards in the Division, am not going to have time to do.

If that group meets and presents suggestions, I will certainly be able to look at those and discuss it with the Board, but I'm not going to be able to go out and go to all of those meetings.

MR. STALTER: What I've heard from you all, which won't work either, go draft some proposals and bring it back to us. Now, that requires us to go spend a bunch of time, and I've run into -- and I've had to push hard for those. So I have to know -- you know, have some exchange with the two of you, with the Board about whether you're going to be receptive to what the industry brings to you.

And that's why I say it's got to be a sit down, you know, and I'm going to talk to you about a series of meetings.

MS. EULER: So are you talking about one meeting, maybe two?

MR. STALTER: I think we're probably
talking maybe three.

MR. REINHARD: We know the trouble points in this all already, so I mean, that's where you have to sit down, address those.

MR. KRAUS: I think it's quite an important thing in going forward with such meetings and saying that you need feedback from Sharon and I, which we can certainly give as to, well, we think that will fly legally under Senate Bill 1, or, It's our personal legal opinion that we think it won't. But as to whether it's a good idea, assuming it would fly legally, isn't for me or Sharon to make.

MS. EULER: Right.

MR. KRAUS: We would be obligated to bring that to the Board and see what the Board wants to do; but legal discussions we could have.

MR. MAHN: Mr. Chairman, didn't we already discuss the different disclaimers that needs to be in the contracts? Remember, Earl?

MR. KRAUS: (Nodded head.)

MR. MAHN: Right. So why can't a funeral home or Bill and his group or whoever take that and design their own contract? I mean, is that what you're really wanting to talk about?

MS. EULER: No. No. We're talking
about rules, or interpretation of the statute, what the statute means, things like the insurance issues that Bill and Don have both raised, things like the finance charge issue.

MR. KRAUS: I assume ultimately they lean towards proposed rules, clarify issues.

MS. EULER: Uh-huh.

MR. MAHN: Exactly.

MR. KRAUS: -- or proposed legislative changes to fix problems we can't fix by rule.

MS. EULER: Yeah.

MR. MAHN: Yeah.

MR. OTTO: And I hate to have two or three meetings and come up with a whole list of stuff to have you or Sharon say no.

MS. EULER: So we can just short circuit that and say no now?

MR. OTTO: Yeah. Yeah. If you're going to say no, let us --

MS. EULER: I mean, I think we would certainly be receptive.

MR. KRAUS: And we've seen in these very meetings too, I think, where sometimes Sharon and I disagree as to whether something's going to fly or not and whether we think it's lawful or not. Or sometimes
we agree that we don't think it's lawful, but the Board really thinks it is and that they want to do it, and they consider it and, well, maybe they go forward with it anyway. Of course, we recommend not doing that, but ultimately, it's not our decision.

MR. STALTER: I think that's understood. I mean, the Board is -- makes the decisions, but what we're trying to do, we -- we, as attorneys, give advice to our clients. And we're looking to get on the same page --

MR. KRAUS: Sure.

MR. STALTER: -- with you all.

MR. KRAUS: And where I'm going is my client's the Board, as opposed to you and your clients. And also I -- I don't think I can be -- I can have the legal discussions as to whether I think things are legal under Senate Bill 1, but I don't think I'm the filter for the Board in any way because the Board still needs to make their own decisions. So I wouldn't want to -- I'm willing to participate in these meetings or discussions, but I don't want us to go in with --

MS. EULER: We don't speak for the Board.

MR. KRAUS: -- differing conceptions of what's going to happen and what my role is because I
MR. STALTER: That's understood.

CHAIRMAN VERNON: So if we actually -- if we set up a first-time trial and got attorneys, would you guys be willing, or is it kosher from AG and Division for a first time, one time go at it, to see what happens. Kind of Jim's thought of -- really the -- I don't know.

I think subcommittee would have to be the way we would go about it, just as a working day to some extent. Even though all the Board might like to hear it all, but -- but if we did a subcommittee that way, do you guys think that would work okay? You guys (indicating) think it would work okay, but do you guys (indicating) think it would work okay?

MR. KRAUS: Just looking at it from a procedural perspective, I would suggest that that's not really a subcommittee of the Board because no members of the Board are there.

CHAIRMAN VERNON: No, two would be there.

MR. KRAUS: Two would be? Okay. What I was going to say is if there are no members of the Board there, then it wouldn't be and then you wouldn't have to post notice of the meeting, you wouldn't have
to do any of that. But if it is a subcommittee, then
you would post it, people could attend, it would be an
open meeting.

CHAIRMAN VERNON: Okay. I'm not

being --

MR. KRAUS: which could change the
dynamics of the meeting.

CHAIRMAN VERNON: But if we're doing all
that, if all the Board wants to come, I mean, if you're
going through the openness of it and all of that -- I'm
not going to say hype, but --

MR. KRAUS: Right. Because you would

have to.

CHAIRMAN VERNON: Because basically it
just becomes -- it's an open meeting and that's okay --

MR. MAHN: Can I make a suggestion,

Mr. Chairman?

CHAIRMAN VERNON: Yes.

MR. MAHN: Why not over the next year do
like we did on the emergency rules and all the meetings
we have, set up a section or time of it for open to go
over these?

CHAIRMAN VERNON: I think their thoughts
though are they're wanting to fix it faster than that.

MR. STALTER: I think basically to look
at initiating something within the next month or so.

MS. DUNN: It would be like a work

dedicated to just that.

MR. STALTER: Some of these places are

trying to get a program together and we just want some

clarification. As long as we can all kind of get on

the same page about things; we may not agree, but if we

can understand where each other is coming from --

MR. MAHN: Can you give me an example of

something that they have an issue with?

MR. REINHARD: They just did, that

insurance.

MR. MAHN: Well, not the insurance.

MR. MCCULLOCH: How about -- let me say

this: Why don't we get these guys together and let the

Board just decide what we're going to do because we're

trying to fix for our customers and for the funeral

industry and that's really what we want. We'll leave

those two attorneys (indicating) out of it. And we'll

get something done. Don't you agree? How about that?

MS. EULER: And then when you get sued?

MR. MCCULLOCH: You don't worry about

that; that's us. Don't worry about it.

MR. KRAUS: I think the one thing to be

careful about --
MR. MCCULLOCH: And we'll get something done, because if not, we're going to sit here doing what we're doing and we're not going to get anything done. And no one is getting helped.

MR. KRAUS: I think one thing to be careful about, whether Sharon and I are included or not, is I would recommend that through such meetings that there not be developed some kind of policy or something like that, that well, Here's how the Board's going to view this, which I think is kind of what you're wanting, without promulgating a rule. Because then you're essentially going by an unpromulgated rule.

MR. MAHN: The Board has to make rule.

MS. EULER: Right.

MR. KRAUS: You have to make rule.

MR. MAHN: Right. The Board has to make rule on it, so they can meet and talk all they want on it, but they can't do anything unless we make a rule.

MR. MCCULLOCH: We're going to be involved in this and we're going to make a rule. That's what --

MR. MAHN: Can't make a rule without the whole Board.

MR. MCCULLOCH: It's going to be the whole Board. Yeah. We can do it right now, today, if
you want to take the time.

MR. REINHARD: All right. I make a
motion we suspend the law for a while.

CHAIRMAN VERNON: Go ahead, Don.

MR. MCCULLOCH: We're not going to sit
here and do this forever.

MR. OTTO: What I think would be great
to get literally just the attorneys together for a day
even to say, well, like we just did a second ago. Now,
do you agree with that interpretation or do you not
agree with that interpretation? And I'm not saying --
you know, I know it's not binding on the Board. The
Board does what the Board does.

But if we can get a list of things,
okay. We -- even if we can't solve the problem, maybe
we can come up with some rules that solve some of the
problems. But even if we don't agree, here are some
issues that we don't agree on; but we all agree we
don't agree, so there obviously -- there's a problem
right there.

MS. Euler: Well, and maybe the thing to
do would be to get that list together instead of just
talking in the abstract.

MR. Kraus: I think that's just where I
was going. We could get together a list of issues that
you are all interested in discussing, beating around.

    MS. EULER: Uh-huh.

    MR. KRAUS: And then we get together when we all talk about those; see where we all think things should be. We may disagree, we may agree. And then from that, we can come up with something definite to bring back to the Board. Here's what we all agree on; here's what we think the fix would be for the Board to consider. The things that we disagree on, we can just talk about with the Board and see what they think.

    MS. EULER: Because if we could have a list together, we could all do a little work in anticipation. It's hard for me to block off a whole day for something like this because I have a lot of other obligations and concerns. But if we could -- if we had a list of things together and the issues identified, then maybe we could -- even if it was a conference call for an hour, I think a lot could get done.

    MR. KRAUS: Yeah. Which could be a series of calls or could be a couple of meetings or --

    MS. EULER: Yeah, or we have video conferencing available in our office. Bill, you could come over to our office and we wouldn't have to travel because that sucks up a lot of time.
MR. REINHARD: Martin, maybe the thing to do is let the lawyers do it and then -- you know, and then leave us out of it for the first go around.

MR. KRAUS: -- bring it back to the Board, which we're required to do. That will be an open meeting, open discussion, everybody can participate.

MS. EULER: Uh-huh.

CHAIRMAN VERNON: Okay. So I don't think we're going to solve this one today. So --

MR. KRAUS: We've kind of arrived at where we could go forward, but I don't know that it requires any action by the Board. We could simply agree to get together with counsel.

MR. SPEAKS: Question?

CHAIRMAN VERNON: Yes, sir.

MR. SPEAKS: Very interesting discussion. The attorneys that have been mentioned represent a certain section of the funeral home population. What about our conglomorate friends at SCI and Stewart? I'd hate to have, you know, Stalter and Otto be the only attorneys present when most of the preneed written in the state is written by Mr. Moody's clients and Amy's employers.

CHAIRMAN VERNON: I guess from my
perspective, we would just invite any attorney that wants to show up.

MR. SPEAKS: Okay.

MR. OTTO: Oh, yeah.

MR. SPEAKS: Just making sure.

CHAIRMAN VERNON: So I guess the next step would just be ball's in your court; go for it.

MR. LINDLEY: Just a point of reference here coming in late.

Sharon, do you and Earl have a list of things that -- or anything? Does the Board have a list, I mean, that we can start on? I mean, that would be some direction that would be helpful.

MR. KRAUS: There are some items that we plan on getting to later in the open session today that we're going to bring up. And I think the vast majority of those are items that the Board has identified previously when we were marching through line by line and said, Let's come back to that later. So we made notes of those and now it's later, to the extent the Board wants to talk about it.

CHAIRMAN VERNON: Mr. Lindley, Mr. Speaks, we received a letter from Mr. Cowherd -- is that the way it's pronounced?

MR. SPEAKS: Cowherd, yes.
CHAIRMAN VERNON: So do you want to address this, whoever?

MR. SPEAKS: Let Scott say anything he wants to. Basically, Sharon, I guess, asked for clarification on the points that I presented to the Board, I think, two meetings ago; is that right, Becky?

MS. DUNN: Yes.

MR. SPEAKS: Two meetings ago. And so this is our attorney's clarification, I guess, on those points. Don Otto addressed in fine fashion number one, timely payment of claims --

CHAIRMAN VERNON: Hey, Brad, hang on just a second.

Are you going out the door?

MS. GERSTEIN: Just for a second.

CHAIRMAN VERNON: Okay.

MS. EULER: Then we won't have a quorum.

CHAIRMAN VERNON: We do not have a quorum, just hang tight.

MR. SPEAKS: You can't leave.

MS. GERSTEIN: We don't have a quorum with me here.

MS. EULER: Yeah. You have three.

MS. GERSTEIN: There's only two of us.

MS. EULER: There are three; one, two,
three.

MS. GERSTEIN: Oh, that's right. There are three. You want me to stay then?

MS. EULER: Or go out and round up one of the others.

Martin, Jim has a motion on the floor. Well, it seems like the Board members have all taken a break.

CHAIRMAN VERNON: Okay. Take a break.

(Off the record.)

CHAIRMAN VERNON: It is time. Sorry about the delay. We will start again. Mr. Speaks, Mr. Lindley, however that's working, you have the floor and you have asked for an uninterrupted discussion until you're done presenting, and you have it, so go for it.

MR. SPEAKS: All right. Everybody have copies of the letter from Robert Cowherd? It was over here on the desk, a handout. Basically, the meeting before last, made a presentation, were kindly allowed to be on the agenda and addressed essentially these same issues. Sharon asked for clarification, and so this is our attorney's response to that request.

Item number one, I think Don did a really good job of addressing that in his comments. I
just want to point out that where at the time we thought the average was 45 days, Donna Garrett, the Special Deputy Receiver, yesterday said that the average is 60 days now. So it's kind of going in the wrong direction.

Where it makes the point, the approved liquidation plan does not provide for payment to the SDR, but instead requires the Guaranty Association to make payment directly to the funeral homes --

MS. EULER: And Brad, if I may speak to that --

CHAIRMAN VERNON: Actually not.

Actually not.

MS. EULER: The Guaranty Association --

CHAIRMAN VERNON: No. They wanted uninterrupted discussion, please.

MR. SPEAKS: Number two --

MS. EULER: Okay.

MR. SPEAKS: -- orphan contracts, no mechanism for reviewing the orphan contracts. And many funeral homes in Missouri have been told and led to believe that they do not have indicia of insurance; indicia of insurance is a phrase that means indication of insurance.

And every time that a contract is
essentially determined to be orphaned, that means that they're not going to pay that funeral home provider anything for providing the goods and services to the consumer at the time of death. And so we're requesting that the Board confer with the Guaranty Fund to create a procedure, an official procedure, for addressing and reviewing those orphaned contracts. We can't get anything out of them as to how that's being addressed.

Number three, ongoing consumer payments.

Again, I think Don did a very good job of addressing that issue. Basically, you know, I think a person could say that money's being stolen because it's not going for anything. Robert terms it an egregious act and I have to say that I agree with that.

We would like to know what's happening with that money, where it's going, and why people should continue to pay that. To date, no one's taken any action to protect these Missouri consumers, so we would like the Board to refer this matter to the Attorney General's office for immediate action to cease this fraud on Missouri consumers.

Number four, Missouri Trust Companies. Under 436, we believe there is multiple violations of old 436 by Missouri Trust Companies in regards to MPS contracts. We are requesting that the Board refer this
matter to the Attorney General for prosecution.

Number five, access to telephone
conferences. CFA is a consortium of approximately
100 funeral homes holding MPS contracts in the state of
Missouri. We would like to at least have the chance to
listen in on the status phone calls with the SDR. That
does not seem to be a point that anybody can make a
good argument against. We have a vested stake in that,
but have been excluded from the proceedings.

And then finally, Mr. Cowherd talks
about the claim forms that were sent out to every
consumer in the state of Missouri holding an MPS
contract or have had dealings with their cemetery
operations. Nevertheless, mass confusion about these
forms. The consumers don't know how to fill them out.
The funeral homes don't know how to fill them out.

Robert makes two points here. We need
direction whether or not to complete the form if you
are a consumer; and two, how to complete it, because
one of the questions the form asks is what are the
damages. Well, nobody knows that because nobody's died
yet. So if death occurs 20 years in the future,
whatever that amount would have grown to is the amount
of damages, but there's not a single one of us in this
room that can predict our own deaths and there's just
no way to determine that.

So since one of the primary functions of
the Board is to protect consumers we would like the
Board to mail Missouri consumers, or get this to them
somehow, the answer to those two questions, and not
leave it up to individual consumers, many of whom are
elderly and, you know, maybe not familiar with the
case, the forms, or the concepts involved. So that
concludes my comments.

Scott, do you have something else?

MR. LINDLEY: Sure. Yeah. In the be --
in regards to the timely payments and that issue, our
group consented to sign off on that original order.
And we had two requests; we pretty much wanted to be
paid every 30 days and we wanted to be able to
negotiate directly with the banks to resolve this
issue.

And those were the only two big issues
that we asked and neither one of those have come to
light as of today's date. Okay? And, you know, that's
very unhandy. Okay? And when we negotiated in good
faith with the SDR not to file a complaint and do all
that stuff and put them through a bunch of stuff, and
then they in turn went forward and had not allowed us
to do that. And the minute I think it was, Brad, after
the order got done, it adjured us in court from going
after them. And then the minute that we get relief
from the judge here in this district, they file another
suit the following Friday to keep us from getting with
the banks. That's -- that's not right.

And this Board definitely had the privy
to deal with that because there's two things here.
We're only asking you to represent the licensees, which
we all are. Okay? We're only asking you, which you're
supposed to be, is a consumer board that represent
these 55,000 customers. Okay? And you certainly have
the right to do that because that's -- if you look at
that, you have the right to represent consumers.

And if there was somebody out there
taking money as their interest did not appear in a
prearrangement contract, like these guys are doing --
because they've already said, All we're paying is face
value, but yet they want to take more money than that,
you all would be jumping on them with both feet. You
wouldn't allow that to happen. So, you know, there is
no reason for that not to be taken care of.

And with regards to the orphan
contracts, once again, we get a written thing of what
they want for us, we call our people in, they bring in
their records, we take them to them, we go over them
with then. Oh well, that's not good enough. Every
time, the dime changes. The marbles move to a
different spot.

Under Chapter 436, once again, we go
back to representing licensees. Okay? And we go back
to representing consumers. There are two sections of
436 that are really clear. Okay? One, everybody's
supposed to be paid in 30 days after somebody dies.
Okay? And it doesn't say 45; it doesn't say 60. And
guess what? Every time one of those incidents takes
place, that's a separate Class D felony. Okay? And
right now, we've got at least 110,000 of them on four
different banks running around this state. Okay? Now,
I don't know how that happens, but it does.

And the other thing that it happens is
it's real clear that under 436, the banks are required
to keep accurate books and records. Okay? And it is
really clear that this did not happen. You go to the
federal district court where the lawsuit was filed by
NOHLGA, and it's basically in there right in black and
white; it didn't happen. And nobody's referred it to
prosecution or done anything about it.

And the claim forms under the SDR, this
will never get right, and they know it, until those
forms go through these funeral homes. These customers
can't do it. Okay? And if the customers do it, then your licensee is going to get taken advantage of; and if the consumers do it, they're going to get taken advantage of by the SDR. The accurate books and records are in the funeral home. That's where this is at. That's where those records are accurate at. And that's where these forms need to go through.

And, you know, in my estimation, if I was this Board, I would hire Mr. Cowherd, it would be less money, and let him resolve these six or seven issues for you. It'll get done quickly. It'll be less expensive and it'll be much more efficient. Thank you. I appreciate your time.

CHAIRMAN VERNON: All right. Does a specific Board member have a question to Scott or Brad?

MR. MAHN: I think I just have a comment that the SDR and Guaranty Association are not licensed under this State Board, are they? So they don't follow underneath our -- we can't start telling them what to do.

MR. LINDLEY: That's my exact point. They're not licensed. They're not under 436. They shouldn't be taking people's money and they shouldn't be dealing with consumer's money at this point in time.

MR. SPEAKS: We're not asking the Board
to do something about it. We're asking the Board to
ask our Attorney General to do something because they
have declined. That's not right. The Attorney
General's office is not responsive to the consumers of
the state on this issue.

MR. LINDLEY: You cannot take money as
your interest appears anymore than that. And that's
what they're doing. Because they've made the
statement, they're only going to pay $X, and they're
taking more than $X.

CHAIRMAN VERNON: Okay.

MR. LINDLEY: In other words, if they
have a $5,000 contract and that's the face value, some
of these contracts had a guarantee factor in it. Some
of these consumers, and a lot of them, had paid more
than the $5,000 and we have continually tried to share
with them that this should immediately stop because
you're not going to pay any more than what the face
value is.

In fact, our point has always been, quit
taking money at all. If the guy's paid in $2,500, and
he dies, give them the $2,500. Let the funeral home
deal with the consumer to work out that issue. Quit
taking money. It's costing more money to keep track of
it; it's not efficient; and it is counterproductive to
what is going to have to happen in the future. If they
just wipe it at that one level where the dollar is
today, everybody knows what they're going to get, no
more money has to go in, and then that contract can be
taken up with the funeral home.

MR. MCCULLOCH: I'd like to make a
motion that we accept these -- the Board, take these
ideas and present them to the Attorney General and see
if they will act on them getting that from us.

CHAIRMAN VERNON: There's a motion;
anybody going to second it. Do I need to go once,
twice? I guess not.

MR. LINDLEY: So where do we go for our
customers? If this group's not going to represent
them, where do you want us to go?

CHAIRMAN VERNON: I have to ask legal
counsel a question. If I, as the chairman, ask for our
legal counsel to review each one of the six CFA is
requesting the Board, CFA is requesting the Board, CFA
is requesting the Board, to look into those six
points -- I know there's been discussion in further,
but one more go. Is that something to do?

MR. KRAUS: Look at them with respect to
what?

CHAIRMAN VERNON: The question that's
being asked. CFA's requesting the Board to refer the
matter to the Attorney General's office.

MR. KRAUS: You mean whether they have
the authority to do that?

CHAIRMAN VERNON: Whatever. Just at
least to look at each one of those individual items and
come back with an answer of we can, we can't, or why we
can't.

MR. KRAUS: You have jurisdiction or you
don't?

CHAIRMAN VERNON: Yes.

MR. KRAUS: If the Board wants to give
me that directive, I will look into it.

CHAIRMAN VERNON: Anybody in for that?

MS. GERSTEIN: I'm sorry.

MR. REINHARD: I didn't hear you.

CHAIRMAN VERNON: Each one of these six
points has a final comment behind it that CFA is
requesting the Board to refer this matter to the
Attorney General's office for prosecution. And my
question is have our legal counsel look and to tell me
why I can or you why you can't or where our
jurisdiction totally stops, where it is, where it
isn't. They think we have it. I'm not totally sure
just to be honest about it. I know what's been said in
the past, but almost a one more time ultimate
authority, if that's the right word, to see if we go
forward.

Yes, sir?

MR. MCCULLOCH: Who has said the
Attorney General can't do any of these things? Where
did that come from?

CHAIRMAN VERNON: Even one more thought
as to following through with it. Now --

MR. MCCULLOCH: My understanding is
they're not talking with you guys and won't talk to
you. But is there a reason why they think they can't
do anything that you know of?

MS. EULER: Actually, if -- if I could
address that. The Attorney General's office has talked
with CFA, and the Attorney General's office has at this
point declined to pursue these matters for several
reasons -- for several valid reasons. And I'd also
like to make --

MR. MCCULLOCH: Can those be shared with
us?

MS. EULER: Sure. I'd like to -- let me
make a point of clarification. In subparagraph one,
the Missouri Guaranty Association has entered into a
contract with Donna Garrett to process claims for
Missouri. So the Missouri -- Donna Garrett is wearing two hats, both as the SDR and as the claims processor for the Missouri Guaranty Association; just as a point of clarification.

And from the Attorney General's perspective, the matters that are raised are matters that need to be taken up with the SDR. If CFA has a problem with how claims are being paid or how orphans are being handled or access to telephone conferences, those matters need to be taken up before the special master.

We as the Missouri Attorney General's office cannot order the special master to provide telephone access to folks. If people want telephone access, they can file a motion for the special master, and they can appear in Texas. Don's been going down to Texas for the special -- for the status conferences. Access has not been denied, it just hasn't been in the format that people want it in.

MR. MCCULLOCH: Isn't the Missouri Guaranty Association's purpose to protect Missouri consumers?

MS. EULER: The purpose of the Missouri Guaranty Association is to provide payment when an insurance company go-- is taken into liquidation.
MR. MCCULLOCH: And to protect the
Missouri people that bought policies in Missouri, not
the ones in Texas --

MS. EULER: Uh-huh, right.

MR. MCCULLOCH: -- or Ohio, or any other
place, right here.

MS. EULER: And the Missouri Guaranty
Association is doing that.

MR. SPEAKS: On some of them.

MS. EULER: Well, if you're not happy
with the decision of the Missouri Guaranty Association,
then the forum to address that is with the Guaranty
Association and through that process. The Attorney
General's office doesn't have any authority over that
or any reason to interfere with another state agency's
process, unless there's some evidence that that agency
is acting inappropriately.

MR. MCCULLOCH: So slow pay and taking
the money on orphan contracts don't fall under that?

MS. EULER: Those are issues that can be
raised before the special master because the Texas
courts have control and supervision over the
receivership. And if anyone has problems with the way
that's being handled, then that needs to be taken
before the special master.
I mean, Don's raised issues, haven't you Don?

MR. OTTO: Yes, every time. And again, until they officially file that this is how they're handling orphan contracts, we're kind of stuck.

MS. EULER: Right.

MR. OTTO: But the day they say, We're keeping that money that was paid from May through October and not giving anything back, that's the day I would certainly hope somebody would file a lawsuit against Donna Garrett personally.

MR. KRAUS: When you say they're "keeping that money," what do mean? Where is that money going to go?

MR. OTTO: It's gone.

MR. KRAUS: Where is it going to be? Well, the money isn't just gone; it's got to be somewhere.

MR. OTTO: Well, I've asked that -- no. It's gone.

(Discussions were held off the record.)

MR. OTTO: That's what they were living off of, I guess.

MR. LINDLEY: Earl, our point here --

MR. KRAUS: So you're implying that
they've stolen it?

MR. OTTO: You know, my view is, you know, what are we complaining that MPS did? They took money and didn't give it back to people that should've had it.

MR. KRAUS: well, that's a whole other thing. We're talking about SDR --

MR. OTTO: I know, but to me --

MR. KRAUS: -- and I think your point is --

MR. OTTO: My personal opinion --

MR. KRAUS: -- that if they haven't filed a plan, you don't even know what the plan is.

MR. OTTO: That's right. Until they file the plan, you can't do much, I don't think, legally. But if they do what they have told me they're doing in the phone conferences, what -- in my personal opinion -- I would say that -- in my personal opinion, what the SDR did for those five months is not a whole lot different than what MPS did.

CHAIRMAN VERNON: Scott?

MR. LINDLEY: Mr. Chairman, what our issue is, is that why do we need to pay to go do something, and why does the consumer need to pay to go do something they've already paid. Okay? They've paid
for this protection. This is what the Attorney
General's supposed to do is to represent the people of
this state and there is -- these are felonies; 436,
Earl, Sharon, would you disagree? Every time something
happens under 436, and it can be proven that it's not
right, it is a separate Class D felony.

MS. EULER: And Scott, right now, as we
speak, there are federal agencies --

MR. LINDLEY: I understand that.

MS. EULER: -- investigating that, and
our office is cooperating with those federal
agencies --

MR. LINDLEY: That's right.

MS. EULER: -- and we do not want to do
anything that will hamper those federal agencies --

MR. LINDLEY: I don't think -- you know
what? In our conversation with people, this is what
we're asking. We had --

MS. EULER: And that's fine.

MR. LINDLEY: -- cleared this. It's not
going to bother anything. It's not going to upset or
give anybody a hiccup or heartburn except for a couple
of people.

And I don't think it's a -- I think
we're all -- I think the judge was pretty clear from
Jeff City. Yes, SDR has certain rights under code 19 of the federal statute. But they don't have total right and total say over all this issue that's going on. And it was pretty clear in her directive that these funeral homes and consumers have just as much right as she does when you read that. And that was perfectly clear.

Now, did she say this was going to be difficult? Yes. She did say that. And that's why we think that our Attorney General needs to be out front with us moving forward to resolve this.

MS. EULER: Well, and if you would like to request the Attorney General to take additional action --

MR. SPEAKS: We did.

MS. EULER: -- feel free to send us -- send us a second request.

MR. SPEAKS: We had a personal meeting with you and your boss and he said --

MS. EULER: Exactly.

MR. SPEAKS: -- it's not part of our strategy.

MS. EULER: That's exactly right.

MR. SPEAKS: Well, when did burying your heads in the sand become the State of Missouri's
strategy?

    MS. EULER: I don't think that anybody
said that was the strategy. But if you would like to
submit a request to the Attorney General's office --

    MR. LINDLEY: We're submitting a request
to the body that we're licensed under and we're
submitting a request to what our consumers deposited
the money under, right here.

    MR. MCCULLOCH: So again, I'd like to
make the motion that this Board submit this information
to the Attorney General. I'd like to make that motion
again.

    CHAIRMAN VERNON: There's the motion.

    MR. MAHN: This letter you mean
(indicating)?

    MR. MCCULLOCH: Yeah. What we just
talked about.

    CHAIRMAN VERNON: That's all the
letter's actually asking for.

    MR. MCCULLOCH: The same thing that
Sharon said that they should submit. I think the Board
should do that. That's what he's trying to say; if it
comes from the Board, maybe it'll have a little more
impact, maybe they'll see it as more important. That
will help your consumers --
MR. SPEAKS: Isn't that how violations
of 436 are normally handled? The Board makes a
referral to the Attorney General's office?

Representative Meadows is nodding his
head that is correct. That's what we're asking for.

MR. KRAUS: That is true in issues of
discipline. That's referred to the Attorney General's
office when the Board has viewed a complaint regarding
one of its licensees that they think merits some kind
of discipline, they refer that to the Attorney
General's office. The Attorney General's office files
the case with the Administrative Hearing Commission,
they have a hearing with the respondent there -- the
licensee there, determine if it is a cause for a
violation. It comes back to the Board; the Board
determines what that level of discipline should be with
regard to its licensee.

Now, this isn't with regard to a
licensee.

MR. LINDLEY: This is in regards to
55,000 people.

MR. KRAUS: I'm just talking about
jurisdiction.

MR. LINDLEY: And you know what, Earl?
Jurisdiction is sorted out later on and you know that
as well as I do.

MR. KRAUS: I don't agree with that.

MR. LINDLEY: Yeah, well, you -- yeah, it is. I've been there, done that.

MR. SPEAKS: We've all been doing the right thing. If they slap you down, you know, no harm done. What's going to happen?

CHAIRMAN VERNON: John made a motion, anybody second? I guess not. Okay.

MR. SPEAKS: Thank you, John.

MR. LINDLEY: John, thanks a lot.

Appreciate it.

CHAIRMAN VERNON: I'm still thinking a formal request might -- tell me how to satisfy this. A formal request was made to this Board. Are we going to answer that formal request sitting here today or just say we're not or maybe that's what we just did?

MR. KRAUS: I think procedurally you've done that. There was a motion and it died without a second, so that's the action or the nonaction by the Board.

CHAIRMAN VERNON: Okay.

MR. LINDLEY: Why doesn't Earl just call Robert? Because I think most of these people are sitting around this thinking that they're going to have
some issue with it later on and maybe Earl and Robert could talk on the phone and resolve some of these issues here, looks like to me.

MR. KRAUS: Resolve the issues with the SDR?

MR. LINDLEY: No. Resolve the issues of why they won't vote.

MR. KRAUS: Why who won't vote?

MR. LINDLEY: I mean, I think some of them think that if it seconds, they're going to create some difficulty here. And --

MR. MAHN: Mr. Chairman, can I say something?

MR. LINDLEY: -- maybe you can resolve that along with Robert. Put them at ease.

MR. MAHN: Scott, I don't think we're thinking we're going to create difficulty, but there are procedures to be followed here. And what this Board does and acts on, you're asking us to do something that's not in our jurisdiction.

MR. LINDLEY: This is totally in your jurisdiction.

MR. MAHN: Well, I'm telling you that it's not. But you come in on your horse every time like you want something, and we're going to do whatever
it is that you ask for. Okay?

MR. LINDLEY: I don't think we -- I think we wrote several different --

MR. MAHN: I mean, Brad puts things one way, I'll be honest with you, you put and direct it another way. And maybe you should have had Brad ask that question, but I'm just telling you --

MR. LINDLEY: I think the Chairman was struggling.

MR. MAHN: -- next month, December, it'll be something else, you know.

MR. LINDLEY: I don't think so.

MR. MAHN: It'll be something else and this is out of our hands.

MR. LINDLEY: I don't think it's out of your hands either.

MR. MAHN: I've got MPS contracts; I understand where you're coming from. I don't like waiting 60 or 80 days either, but, you know, at the same time, I don't want to end up getting zero.

MR. LINDLEY: You're not going to get zero. How do you figure you're --

MR. MAHN: How do you know that? You got a crystal ball?

MR. LINDLEY: Because it's already
stated in the law how you're supposed to be paid. I mean, you're not going to get anything less than what you're getting right now, because they've already filed all that in the courts.

MR. MAHN: Okay.

MR. LINDLEY: I mean, you're not going to get less than that.

MR. MCCULLOCH: Hey, Todd, why do you think it's out of our jurisdiction? I mean, we're just asking the Attorney General, who represents us all, to say, Hey, why don't you see if you can do something to move these folks to get us closer to -- what -- what's wrong with that? The worst case thing, they're going to say no, just like they told them, they're going to say no, but at least we tried.

So then, kind of like you're always wanting to go back to your consumers and be able to say, Hey, I tried to do something to help out consumers and the people in my community.

MR. MAHN: I have several concerns on it, John. to be honest with you. You know, some of them being that this Board become the voice for someone else -- for some other group. I think that the Association has made several trips to Texas and I don't actually see them asking us.
And I don't always agree with Don on everything, but, you know, I think I'd feel a little better even if it was an Association -- state association asking. He's been to Texas yesterday. He's not making a formal request for the Board to make any statements or ask for anything in this matter. As a matter of fact, I don't even see Don really seconding in on this at all.

I mean, you've been down to Texas. Do you see a necessity for this Board to make this request?

MR. OTTO: My personal opinion is that a request would be futile whether you have the jurisdiction or not, so -- you have to pick your battles sometimes.

CHAIRMAN VERNON: Unless we're going -- anybody else has got a comment to go forward with it, we respectfully accept your comments.

MR. SPEAKS: Thank you, Mr. Chairman.

MR. LINDLEY: Thanks, Martin.

Appreciate it.

CHAIRMAN VERNON: Next thought, the open agenda item number four.

MS. DUNN: Ivra, did you have anything before you left?
MS. CROSS: Now, that you've put me on the spot.

MS. DUNN: I'm sorry. I didn't know you were leaving.

MS. CROSS: When Becky had asked me if I would come and talk to the board if I had any updates on the electronic registration system, I told her at the time that I really didn't have any updates other than what I had sent out in late September to our pilots.

This week I -- the latter part of last week and yesterday and today, I've been working on instructions to get out to my pilots on how to get started with the user ID and things of that nature. I have a map that we made up identifying locations and data providers on that map because I wanted to see just what sort of range we had.

We've identified almost 40 physicians. All of the medical examiners in the state are going to participate. We have identified, oh, I guess about 10 or 15 coroners that are going to participate, but we've only got 20 funeral homes. I think that one of the concerns was that the funeral directors were not comfortable with physicians not participating in this pilot. I have more physicians -- or medical certifiers...
than I do funeral homes that are going to pilot.

The pilot is going to start in Jefferson City. We're working out a schedule where individuals can come into Jefferson City, St. Louis, Kansas City, and Cape. I don't have confirmation on dates just yet, but the last week in October, the first couple weeks in November is when we plan to go out to these different sites, other than here in Jefferson City. That's the first week in November, that I do know because we have the training room.

We will be conducting trainings at our state district offices. If anybody here who is -- I think, Scott, you're going to pilot?

MR. LINDLEY: Whenever you tell me to start.

MS. CROSS: Okay. And I think Don --

MR. LAKIN: I have a question.

MS. CROSS: -- said something about it, but anyway, anybody who wants to bring a laptop, we've got wireless remote connectivity, that thing. And so they can access the system through their own or we will provide laptops through the training. We plan to conduct two trainings per day at each site.

We've got some funeral homes actually from Illinois that are coming over to participate, and
so I'm real pleased about that. There are some funeral homes in the state of Kansas that would like to participate. I haven't gotten back with them just yet because I've been out of the office the last couple of weeks, but right now we're moving forward.

And I know that there was a concern about cremations that just was recently brought to my attention. I know that people are saying -- you know, we've been talking about this for years, but nobody talked to me. And so I just want to lay that fear to rest.

In this new system, for cremations, there will be a successful transmission once your record comes through the system and then you will be able to print out a confirmation to present to the crematory. Now, the crematories are not authorized to have copies of death certificates anyway, so the only thing that is required for a cremation is that you have to have a certificate -- a completed certificate registered or you have to have a written statement by the certifier that they're going to certify.

And the system -- that's going to take care of the problem that I understand has been rolling around out there now about the cremations in regards to the system. So I'm glad that that was brought to my
attention so that we could direct focus to how to
resolve that and I think that we have. So with that,
those are about the only pieces of update that I have.

MR. LAKIN: Are you going to come to
Springfield area?

MS. CROSS: Yes, we are. I'm sorry. I
haven't got any dates yet. I haven't even put that on
my map just yet, but we are because -- I can't think of
her name, but anyway she's in Springfield. She's a
trade service type funeral home and she --

MR. LAKIN: Where are the 40 -- and I'm
just asking this. Where are the 40 doctors you have?
Just in this area? Because we got 14,000 doctors in
the state of Missouri.

MS. CROSS: We've got -- actually we've
got probably more than that, but we sent out a letter
that I had come up with asking for volunteers across
the state. And I got quite a bit of positive feedback
in trying to get this taken care of and I even had
physicians that were dermatologists and asked if there
were different aspects of this project, I would like to
participate. So the doctors are on board with this.
There used to the electronic medical records. They're
familiar with these electronics and they want to move
into the 21st century, so they really don't have a
problem as we thought they would.

I don't know exactly where. I know that we've got Boone, the St. Louis city and County area, I think that somebody had expressed interest in the St. Charles County area. I know that Cape; I know that there is someplace in Springfield, Don, I just can't recall off the top of my head.

But these locations are continuing across the state and that's the good thing. And so what I was trying to do was set up the trainings where, like our Illinois friends can come into St. Louis because they're closer to the St. Louis County area, that they can go there. But these will not be at any of the health facilities; they will be in the state district offices.

Yes?

MR. REINHARD: How's the embalmer sign off on this thing?

MS. COOK: Okay, in the system we have an access form where an embalmer -- we've got all of the embalmers listed. They can click on their name -- well, let me start -- let me go back. The funeral director would assign it to that embalmer that embalmed for them. Okay? And then the embalmer would go into that queue, they would have their own queue, and they
would select that deceased that they embalmed, and then they would click and put -- indicate, certify that I did the embalming.

MR. LAKIN: Will 333 have to be changed because it says in the embalmer's own signature?

MS. CROSS: Right.

MR. LAKIN: So you're going to have to go in and change some rule in 333, and this is going to come down to the first of the year. I mean, this is supposed to -- and I hope it don't. I hope they put you off until February.

MS. CROSS: It's okay, Don. We had talked about that sometime back early May, I guess, when we had a meeting and I asked then if there was any opposition to certifying electronically with the embalmers or funeral directors. And I presented that to them and there was no opposition, and so I --

MR. LAKIN: Yeah, but it's still going to have to be changed in the statute.

MR. OTTO: There's a couple of things that I think are going to have to be changed in the statutes if this is going to fly. Putting the regulation that says crematories that can do cremations must have either the death certificate or the doctor's --
MS. CROSS: No, Don.

MR. OTTO: Paragraph three, read paragraph three of that regulation.

MS. CROSS: I know what it says. It does not say must have a copy of the death certificate. They're not authorized to have a copy of the death certificate. What it says is that the death certificate shall be registered or a written statement provided to the funeral director or the crematory by the certifier that they're going to certify this death certificate. That's what it says. The certificate has to be registered before you can cremate, otherwise you need go to the certifier. That's what it says.

MR. OTTO: Say that again.

MS. CROSS: It says that the certificate must be completed and registered prior to cremation or a written statement by the certifier that they're going to certify it to present to the funeral director or -- so that they can present it to the crematory. That's what it says.

MR. SPEAKS: I think most of the funeral homes in the state use that mechanism. I thought there was wording, maybe it's not actually part of the statute, that said, if the cause -- quote, unquote, if the cause of death --
MS. CROSS: Cannot be determined.

MR. SPEAKS: -- cannot be determined within 72 hours.

MS. CROSS: Right.

MR. SPEAKS: And the way around it is, well, they haven't been able to determine it yet, but here's the paperwork.

MR. MAHN: That's all right.

MS. CROSS: But here's a written statement saying that you're --

MR. SPEAKS: That they agree that they will.

MS. CROSS: And that answers that you need to give a statement or you'd need to --

MR. FRAKER: So is it at that point in time that a coroner takes over after the 72 hours?

MR. LAKIN: Yes. But it says specifically in the statute that if it's a coroner's case --

MS. CROSS: Right.

MR. LAKIN: I've already done for the last 10 years. Ivra knows that. If it's a coroner's case; if it's a hospice case and they called you, you can make it into a coroner's case because they called the coroner for hospice or a nursing home.
MS. CROSS: That's right.

MR. LAKIN: But if it's just somebody that dies over at Mount Vernon at the state hospital, the state hospital is -- they don't have to muck out with any of these rules.

MS. CROSS: What we recommend is that in the instance where you cannot get a completed certificate prior to cremation, that bottom line is you can't post ashes sometimes. The thing is, is that when you cannot get a completed certificate, they're looking to make sure that that body has not met with foul play. That's the whole deal.

So when you cannot get a completed certificate, what I recommend is if the certifier is not available, then you contact the coroner or the medical examiner. In most cases they will say I have no interest in the case. Then you would go into -- if the person expired at a facility, then you would go to the chief medical officer of that facility because they are responsible for the activities of their staff and ask them to provide a written document so that you can present so the crematory so that family can -- their wishes can be carried out with the disposition.

If all else fails, I have said this, then you cannot cremate until you get written
MR. LAKIN: Can a registrar do that in specific cases if a coroner won't?

MS. CROSS: In certain cases a registrar is allowed to, well, complete a certificate, provided they conduct an investigation and determine facts of the death. They cannot just -- a funeral director can't just come in and say, You're not complying with the statute if you don't sign this death certificate for me; I know what the cause of death is and they're going to give you the manner and cause and the local's going to sign it? No.

I do not recommend that because --

MR. REINHARD: But it has happened though.

MS. CROSS: Oh, yeah. It has and I have discouraged it every time I have found that out because that is not an appropriate method to get things done. Because if this takes on a judicial process, somebody's going to be in trouble. Okay?

MR. LAKIN: And the coroner just as well investigate that death even though it may be a death at home, call the police department and tell them -- getting back to your statement, Gary. But the law specifically says unless it's a coroner's case, the
coroner cannot sign that authorization that the cause
of death has not been determined.

    Now, I know that we got coroners all
over the state that do it. Ivra knows that we have
coroners --

    MS. CROSS: Yeah, we do.
    MR. LAKIN: -- all over, but as far as
it being legal, it is not. And the registrars
situation, back several years ago --

    MS. CROSS: That's an archaic law --
    MR. REINHARD: Well, you're talking to
the dinosaur here.

    MS. CROSS: Well, yeah, but Don knows,
he knows. Okay? And trust me, I refer to him a lot.
    MR. REINHARD: In a bad way.
    MS. CROSS: No, no. It's all good.

When I'm second guessing myself or struggling with an
issue, well, then I will ask Don about it, because I
know that he does know.

    Is there anything else?

    CHAIRMAN VERNON: Any questions?
    MR. REINHARD: Thank you, Ivra.
    MS. CROSS: Okay.
    CHAIRMAN VERNON: Thanks for coming.
    MS. DUNN: Thank you, Ivra.
MS. CROSS: Okay. See y'all later.

CHAIRMAN VERNON: Okay. Question?

MR. OTTO: Just for those that were looking -- trying to look this up, I know some people were, it's on page 68 of the orange hymnal. If a completed death cert-- this is 19CSR10-10.100, paragraph two: If a completed death certificate cannot be filed because the cause of death has not been determined, the medical examiner/coroner/physician, certifying the cause of death shall give the funeral director notice of a reasonable delay.

The body shall not be cremated until written authorization by the medical examiner/coroner/physician is received by the funeral director. So if the cause of death cannot be determined, then that written authorization comes out.

Paragraph three of that says the management of a crematory shall require from an authorized funeral home one of the following: A completed death certificate that's been filed with the local registrar where the death occurred or the funeral director has received that written authorization to cremate the body from a medical examiner/coroner.

We disagree; I don't know how. And for the reco'd, we brought up this death certificate thing
three years ago, and about direct cremation.

    MR. LAKIN: But on one place it says --
on the second part that you read it says from the
coroner or funeral, but on the first set it says
physician/coronor.

    MR. OTTO: Yeah. But the crematory must
require, must require, one of those two things; a
completed death certificate filed with the local
registrar or the letter. Which you can only get the
letter if the cause of death has not been determined.

    MR. LAKIN: But file is the secret with
her, Don. File is the little word. If you file it,
that -- you know, all you have to do is tell the
crematory you filed it according to her. Filed is the
secret word with her.

    MR. LINDLEY: What's it say there?

    MR. OTTO: Must. Shall require.

    MR. KRAUS: You don't have to have it in
your hand, you just -- it just has to be filed.

    MR. OTTO: The management from the
crematory shall require from an authorized funeral home
a signed statement which states that a completed death
certificate has been filed with the local registrar
where the death occurred.

You're not completing -- you're not
dealing with the registrar anymore. So that's why I'm
saying -- I mean, this is their rule. This isn't
yours. They can change the rule to fix it.

MR. LINDLEY: So in your interpretation
of the word "must", that means they got to do it?

MR. OTTO: That -- yeah. Require --

MR. LINDLEY: I think under -- I think
the same words are used in Chapter 436 on we must be
paid. And if this Board's going to have jurisdiction
over that must, they better have jurisdiction over the
other must.

MR. OTTO: Well, that is a Health
Department --

MR. LINDLEY: I don't understand how
anybody 'n the state of Missouri can have a must one
place and a must somewhere else and not comply. Can
you, Representative Meadows?

REPRESENTATIVE MEADOWS: I don't know
that one. I'd have to look into it.

MR. LINDLEY: Well, must and shall
doesn't give the people the opportunity to not do
things, does it, Don?

MR. LAKIN: No, it don't. May is the
secret word.

MR. LINDLEY: But must and shall means
the things that got to be done. Right?

MR. OTTO: Well, I think the Health
Department could definitely change that regulation to
make that --

MR. LAKIN: The Health Department will
not change any regulation. And we tried to get a
regulation changed when Gary Shipley was there and he
wouldn't do it.

CHAIRMAN VERNON: Well, we're the State
Board and not the Health Department, so the next order
of business is the letter from John Moore, each one of
you should have a copy of that, requesting a decision
on the scenario that creates, Is this a $36 preneed.
Does everybody have that?

MS. EULER: It's an e-mail.

CHAIRMAN VERNON: Does everybody got
that e-mail from John Moore? Okay. The question is, I
would like to know if the Board can give an official
ruling on the following:

MR. REINHARD: Is it a can or a may?

CHAIRMAN VERNON: It says can.

MS. RUSSELL: I think you all discussed
this.

MR. MAHN: Yeah, I think we did.

CHAIRMAN VERNON: Have we?
MR. MAHN: Yep.

MS. RUSSELL: Yeah.

MR. MAHN: If no goods or services on the contract.

CHAIRMAN VERNON: Okay. You mean at a prior meeting?

MS. RUSSELL: Yeah. You had -- you just had -- we just did this in August -- or you guys did this in August.

CHAIRMAN VERNON: I don't remember personally, but that's okay.

MS. EULER: If there's no preneed contract --

MR. KRAUS: We talked about how if there's no preneed contract, but there's an assigned insurance policy, then that insurance policy doesn't mean that it's a preneed; but if there is a preneed contract, then there's a preneed contract --

MS. EULER: Right. Right.

MR. KRAUS: -- with regards to how it's funded.

CHAIRMAN VERNON: All right. Does that solve that?

MR. REINHARD: What was the answer?

MR. KRAUS: I mean, I think he's kind of
trying to ask -- well, you come in and you have this
assignment, there's no bill of goods and services, and
there's no prices frozen. He doesn't really say,
however, there's an understanding that this is in
exchange for something, because if there is an exchange
for something, then there is a contract. And a preneed
contract is a preneed contract. But that's going to be
a factua examination case by case.

MR. MCCULLOCH: Doesn't it have to be in
writing now though, or can you do it verbally?

CHAIRMAN VERNON: Okay. I think, does
this part matter. I understand the assignment of life
insurance, but a CD at the bank is put into a
survivorship of the funeral home. Is that equal --

MR. MCCULLOCH: I would say no. There's
no --

MS. EULER: It doesn't, unless there's a
preneed contract.

MR. MCCULLOCH: -- paperwork, I think
it's no. If you haven't written it down and said we're
going to do this or that and freeze, unfrozen; I think
that's the key to it all. Once you put it on paper and
you start -- and then you have the contract there,
there's where it becomes a preneed contract I believe.

CHAIRMAN VERNON: The part that bugs me
about his question is a person comes to a funeral home
and prearranges.

MR. MCCULLOCH: He didn't say what he
meant to.

MR. MAHN: And he picked out the items.

CHAIRMAN VERNON: Okay. With their
desires. With their desires.

MR. MCCULLOCH: Yeah. When I die, I've
got this policy; I'm just telling you that and I want
you to apply it toward my funeral.

MR. KRAUS: And that's going to have to
be a case by case analysis under contract law, as to
whether that constitutes the forming of a contract.
The danger in this kind of question is you have that
case by case question as to whether it's a contract,
which if the Board starts down that road, well, that's
going to be your job from here on out is answering
hypotheticals about what's a contract and what's not.

That's really proper for the court to
determine. And if you make some overall answer, say,
to this question that in all similar situations like
this, here's what the Board deems to be the case,
you've promulgated a rule without promulgating a rule.
And you can't do that either.

So I think the safe thing and I think
what Becky and her staff have been trying to do when they get questions like this on the phone is refer back to the law, which is, What you should do is if there is a preneed contract, then you're subject to the provisions that are set out in all preneed contracts. If there's not the formation of a preneed contract, then there's not. And everything that that implies. If there's not a preneed contract, of course there's no $36 fee; there's not a preneed contract.

MS. EULER: And didn't we do a rule about preplanning versus -- that preplanning is not a preneed contract?

MR. KRAUS: I don't think so.

MS. EULER: We talked about it.

(Discussions were held off the record.)

MS. EULER: Right. And that rule, as we discussed, and I don't remember if that's one we filed or if that's one we waited on, answers this one. And I would second what Earl said. I caution the Board against answering hypothetical questions, but if the Board wants to use a hypothetical question as a basis for saying we need a rule on this and then do a rule, that would be appropriate.

CHAIRMAN VERNON: Mr. Otto?

MR. OTTO: Well, as was mentioned back
here, the wild card that's not in this hypothetical is DFS or SFD or --

MS. EULER: FSD.

MR. OTTO: You know, I swear, I mean, what -- who's the lobbyist for the letterhead company that changes these people's names?

But anyway, that's the wild card that's not in this hypothetical, because the family services requires a contract and that's 99 percent of the time why someone would turn a CD over to you if you have no contract. I mean, who -- you know, I haven't had anybody come to me this week and say I've got this CD I'd just like to put in your name for no reason.

MS. EULER: Well, I have to tell you from some of my work with funeral homes, people do that.

MR. OTTO: Oh, no. You're right. You're right. But the reason they do it -- the reason a lot of them do it -- not all, but the reason a lot of them do it is to get that exclusion of assets. And so if you're in a jurisdiction where your DFS person requires a contract, then -- which brings us back to what we talked about earlier.

MS. EULER: Yeah.

CHAIRMAN VERNON: Okay. Well, I think
the answer to the question is no.

MR. KRAUS: Or direct them to the law.

CHAIRMAN VERNON: Or direct them to the law. So have you got what you need?

MS. DUNN: Uh-huh.

There's a handout in the back that looks like this that will go along with Connie's handout.

MS. CLARKSON: What Becky has provided is this (indicating) handout that you see looking like this with what was the final language that the Board voted on. This is the document that we're working -- my staff is working from to promulgate those rules.

MS. DUNN: That was sent to you in e-mail and it was also on the back table, but it shouldn't be anything new.

MS. CLARKSON: Okay. The second document was on a legal size with the colors. This is the tracking sheet that we have been using internally to keep track of where the process for each of the rules is. It's very important with the -- again, as I've said before, with rules, to make sure that we keep everything on track because deadlines are set statutorily so if we miss a deadline, we start over. So it's very important that we make sure that we're on top of those deadline dates.
The color coding for the rules is -- we were trying to explain where things were at so when we got in here it wasn't so overwhelming as you were trying to follow the lines down. The green -- or the blue that you see on your sheet are the ones that we've completed all the documents internally. we've gotten all the approvals and they've been filed with the Secretary of State's office.

The notice of intent only had an emergency rule filed. It did not have a regular rule filed because that -- because of the time period, there would be no need to file a regular rule based on the notice of intent.

The other four rules that are highlighted in green had a regular rule along with an emergency rule filed. What you'll follow along the line is the date that the emergency rule becomes effective, and the date that the emergency rule expires. That -- when an emergency rule expires, hopefully we'll make all the deadlines so that there's no break in the rules for the regular rule for those rules. So our hope is to have the regular rule in effect by the time the emergency rule expires; and for most of these it's April the 1st of 2010.

The ones that you see in yellow are the
ones that we're working up right now. We're completing small business statements, and what that entails for us is that the transcripts that we receive from the court reporting company have been very helpful because we've gone back in to be able to summarize some of the comments made; some of the suggestions that the public has made to do those statements, and we're working through those and we've got a set of about six right now. I think we've got everything except for today's meeting that we've been able to summarize from.

The small business statements then are to be reviewed and approved by the Division director once Becky looks at those. And that should be happening and moving into her office within the next week or so.

We're working on fiscal notes. Fiscal notes are a little bit separate from small business statements in the fact that we have to summarize monies. So if it's costing somebody, you know, $15 to apply for an application of some sort, we track that. If it's a notary, those things go into fiscal notes and then we have to justify how we use that money. Some of this you'll see as we've gone down, an evaluation has been conducted and no fiscal notes needed, and it's been noted on here. Others we're still looking at
carefully as we go through that.

The ones that have not had any kind of
color coding to those, we've not touched those yet, and
we will be working on those. Hopefully, we'll get
small business and everything filed by the end of the
month. That's my goal, but there's no promise to that.
So I hope by the time we're together in December, all
these lines are filled out, you have dates when things
were filed, when to watch the Missouri register, when
to watch for common periods, when to watch the code of
state regulations, and so forth.

One thing I did want to note was there
is on the Small Business Regulatory Fairness Board
website, which is another state agency -- you could
Google that to sign up for any notifications that they
have. And you can see the State ones as well as -- I
think Becky is putting those on the -- are you putting
those on the website? The small business statements.

MS. DUNN: I'm putting a link on it.

MS. CLARKSON: Okay. So it's filed. So
you'll be able to see that. Plus, you'll also be able
to get a notification of the rules filed. And they do
ask for comments on there. It is your right to file a
comment if you would like. They do also have the
ability to hold hearings of the small business. They
can't affect the rule, but they would go on your behalf
to Jake Narley to be able to hold a hearing about that,
so that's kind of where we're at with rules right now.

    MS. RUSSELL: What's that website?

    MS. CLARKSON: It's the Small Business
    Regulatory Fairness Board.

    MS. RUSSELL: Small Business Regulatory
    Fairness Board. That's good. That's good. This is so
    impressive.

    MS. DUNN: No one anticipates the
    workload that's involved in the rule.

    MS. CLARKSON: That's it unless anybody
    has questions for me.

    CHAIRMAN VERNON: Anybody have a
    question of Connie?

    Quickly, does the public have specific
    comments that they want to --

    MR. OTTO: Just one thing and it's
    referenced in that long e-mail, but I thought it should
    be brought up separately. The deadline for preneed
    agents in passing their state law exam is
    December 31st, from previous Board action, I believe
    I'm correct. I would wonder whether the Board would
    consider extending that time period.

    I think when that date was picked was
back in August or something and it seemed like plenty of time, it did to me, but the applications weren't out until a few weeks ago. It takes several weeks -- I mean, I don't know how long they're being processed here when they get in, but you're going to get a bunch of them all of a sudden at one time, so it will probably take a while here.

Then you got to send them down to Arkansas and they process them. And then you get the notice back that it's okay to schedule the exam and, you know, you may or may not get in, depending on how busy they are. So it's -- there's a several week process in just taking the darn test after you get your application in. And then with the rule that if you fail the test, you have to wait 30 days before you can take it again, that gives everybody one shot between now and the end of the year.

MS. BATTAGLER: Do you have an idea about how long it will take for the background checks to come back and get a letter of eligibility to the people?

MS. DUNN: The background checks we send electronically to the Highway Patrol, but -- usually it takes a couple of days, but we're not in control of that with the Highway Patrol.
MR. MCCULLOCH: I personally never thought we'd have time, and that's what came up the other day where the agents aren't getting their notice, but I would like to make a motion if we can. Can we change that? Is that okay?

CHAIRMAN VERNON: Hold your motion for one second.

What would -- based upon dealing with the testing and all that, from your experience, what would you recommend?

MR. OTTO: Well --

MR. KRAUS: I just want to clarify, you're talking about the end of October date or the December date?

MR. OTTO: December date.

MR. KRAUS: Okay.

MR. OTTO: I'm talking about the December date. I mean, you voted that that notice of intent covers everybody until December 31st --

MR. KRAUS: Assuming you get your application in.

MR. OTTO: Yes. Assuming you get your application in before October 31st, and I think --

MR. KRAUS: Because they should be able to meet that --
MR. OTTO: Well --

MR. KRAUS: -- October 31st date.

MS. BATTAGLER: Well, let me tell you that a lot -- the preneed agents --

MR. MCCULLOCH: Well, some of them weren't even going to get a notice.

MS. BATTAGLER: -- have never gotten notice.

MR. MCCULLOCH: Yeah.

MS. BATTAGLER: It was the funeral directors that got notice. No preneed agents that I have seen out of our company have received notice.

MS. EULER: That's because we don't know who they are.

MS. BATTAGLER: Yeah, they filed a notice of intent.

MS. EULER: Oh, that's right. They're working on that.

CHAIRMAN VERNON: Hold on one second.

One more time?

MS. DUNN: Do you want to hear the workload I have?

MS. BATTAGLER: I know. I know. I believe you.

MR. MCCULLOCH: Well, Becky, that's what
we're trying to say is you have too much.

MS. BATTAGLER: That's why we're saying

that maybe we need to extend --

MR. MCCULLOCH: They put too much

pressure --

MS. DUNN: Amy, we have 450 --

MS. BATTAGLER: I know.

MS. DUNN: -- notice of intents for

agents.

MS. BATTAGLER: I know.

MS. DUNN: How did they file those?

MR. KRAUS: So they knew to file a

notice of intent, but don't know to apply --

MS. BATTAGLER: My people knew to file a

notice of intent because of me and I made them go back

and do it.

MR. SPEAKS: Good job, Amy.

MS. BATTAGLER: And I made copies of the

formal applications for my people, but I was saying

people -- and I know you all -- there's just a lot of

people out there who don't have a clue.

MR. MCCULLOCH: Yeah, the answer's no,

they do not.

MR. KRAUS: Doesn't it say on the notice

of intent that that is intended to cover you until you
file an application?

MR. MCCULLOCH: Well, why did we send it to the funeral directors if we didn't -- if you're not going to send it to the little agents that don't know anything about what's going on.

MR. KRAUS: No. I'm saying that if the argument is that a bunch of people have filed notice of intents and those people don't know to file an application, that doesn't make sense to me.

MS. EULER: That doesn't make sense.

MR. MCCULLOCH: I'd have to read it and see exactly what it does say. I'm not sure.

MS. EULER: Because it says --

MR. KRAUS: How do you know to file one and not file the other?

MS. EULER: -- on the notice of intent that you have to file your application by --

MR. KRAUS: Yeah, it says it right on there.

MR. MCCULLOCH: Can I make my motion now?

CHAIRMAN VERNON: (Nodded head.)

MR. MCCULLOCH: I'd like to make a motion we go to the first quarter, give everybody to the first quarter of next year to give everybody time;
give this department time to even actually go through
the information. We -- we rushed way too fast in this.
I thought so from day one. It's obvious now and
everybody else is picking up on that.

CHAIRMAN VERNON: But you're only
speaking of agents?

MR. MCCULLOCH: I think that's -- that's
what I think we're --

CHAIRMAN VERNON: What you're talking
about is only speaking of agents.

MR. OTTO: My concern is for these
preneed agents. Getting the test passed by December 31
is going to be --

MR. MCCULLOCH: Because these folks --

MR. OTTO: -- difficult procedurally.

MR. MCCULLOCH: It's not going to happen
and a lot of these folks aren't going to be able to
work.

CHAIRMAN VERNON: Will 90 days do that?

MR. OTTO: I think that's reasonable. I
think -- is the preneed agent form on the website now?

MS. DUNN: Yes.

MR. OTTO: Okay. Now that the preneed
agent form is on the website, I don't think folks have
the excuse they had before as much.
MS. DUNN: Well, Don, whatever the Board decides on this is fine. What we're going to do is send out an e-mail to everyone that we have an e-mail address for. But there again, we have 200 agents that didn't send us an e-mail. So we're going to, at John's suggestion, no matter what the Board decides to do today, we're going to send a postcard to remind everyone and we're going to send an e-mail to everyone. But still, I understand the deadline that you're talking about.

But, you know, communicating with people, I -- I would think that 200 agents might have an e-mail, but they did not put them on there. We had 450 that filed agent application -- notice of intent, and only 250 gave us e-mails. So --

MR. MCCULLOCH: I think there's a lot of folks that do not have --

MS. DUNN: E-mail.

MR. MCCULLOCH: No. They do not. There's a lot more than you realize. I know you deal with it every day, so it's just like an automatic to you, but with a lot of folks it's just not that way.

MR. OTTO: I mean, issue one, do you want to extend the December 31st deadline to the end of the quarter?
MR. LAKIN: The rule will have to be changed.

MR. OTTO: Yeah. Yeah. That'll have to happen. The second issue which I think maybe John implicitly raised is, is the October 31st date for getting the application in for preneed agents reasonable, or is there any reason why that could not be extended?

For preneed sellers and providers, they've already got an October 31st date that they're facing anyway. But this is a new thing for preneed agents. I -- off the top of my head, I don't see any reason why the application process couldn't -- you know, the deadline for preneed agents to get their application in couldn't also be extended another 30 days or something. I mean, it's a separate issue.

MR. KRAUS: Wait. Wait. I mean, is there more time needed to send in the application?

MR. OTTO: Well, I mean, like I said, a lot -- there are more people than you think that don't know that they should be doing that.

MR. KRAUS: And how are they going to find out --

MR. OTTO: Well, we're working -- doing everything we can.
MR. KRAUS: -- if you extend it another 30 days?

MR. OTTO: We're doing everything we can.

MS. DUNN: Well --

MR. MCCULLOCH: Becky said she's going to send out the postcard.

MS. EULER: The October 31 deadline applies only if you've sent in your notice of intent.

MR. KRAUS: Right.

MS. EULER: And if people don't know and they haven't sent in their notice of intent, then they're not authorized now; so they can send their application whenever.

MS. BATTAGLER: But they're not supposed to be selling until they --

CHAIRMAN VERNON: And they're still not able to sell though if they didn't send in notice of intent.

MR. MCCULLOCH: We're concerned about those that are trying to get their license and get it done in time.

MS. EULER: Correct. Yeah. I understand that. But just making the application -- I guess I don't see why there needs to be an extension.
and I'm just throwing the question out there. It's not my decision to make.

      MR. OTTO: To me, that's not as critical as the December 31st date. I just threw it out there as a separate issue.

      MR. MCCULLOCH: I agree.

      MS. EULER: Yeah.

      MR. MCCULLOCH: I agree. That's not as important as giving them longer to get the license and testing done.

      MS. EULER: I understand that.

      MR. MCCULLOCH: If nothing else, to help this office, the State Board office process.

      MR. KRAUS: Now, if you do draw a line, let's say the Board decides to change the date and draw a line that this is just for sellers that were actually --

      MS. BATTAGLER: Agents.

      MR. KRAUS: All right. Instead of just changing the date on the current rule, we're actually writing a different rule for agents, which is different than everybody else.

      MS. EULER: Which is okay.

      MR. MCCULLOCH: They're the ones that need it.
MR. KRAUS: Being clear that that's what we're talking about.

MR. OTTO: Which rule was it that references that December 31st day?

MR. KRAUS: It's the one that talks about the notice of intent process.

MS. RUSSELL: Preneed agents must take the Missouri Law Exam; is that the one?

MS. DUNN: Well, actually, I think it affects two rules maybe. So y'all want to extend the notice of intent?

MR. OTTO: Well, that's effectively what you would be doing, is you would --

MR. KRAUS: Well, that's what you would be doing.

MR. OTTO: -- you would be extending the notice of intent to cover people through the end of the first quarter of 2010 --

MS. DUNN: Okay.

MR. OTTO: -- to give them additional time to take the Missouri Law Exam.

MS. DUNN: Okay. Then I think we're going to have to change three -- two rules. I think we're going to have to change the notice of intent and also the preneed agent must take the Missouri Law Exam.
CHAIRMAN VERNON: Can we do that? Are they already --

MS. CLARKSON: Well, we've got emergency rules in effect, so I'm trying to find out if we can withdraw an emergency rule, or how because it's blended in with the preneed providers and preneed sellers. How do we handle that? I don't know.

MS. BATTAGLER: Becky, your notice of intent to reply referenced the -- being able to take action on anybody if you found out that they --

MS. DUNN: Oh, okay.

MS. BATTAGLER: -- had misconduct at the number eight on that rule.

MS. DUNN: Okay. So then it's only --

MS. BATTAGLER: And then you've also got --

MS. RUSSELL: It says, And shall end on December 31st.

MS. BATTAGLER: Well, that's another --

MS. RUSSELL: Yeah. The notice of intent, yeah. I think that's a notice of intent issue.

MS. BATTAGLER: What they filed on number eight though -- yeah, it does. And then eight says to be able to take action towards anybody that, you know, has misconduct at that time. So you have to
change both parts of that rule.

MS. RUSSELL: And then on the preneed agent must take Missouri Law Exam, it says on or before December 31, 2009; and that's an emergency rule that's already been filed.

MR. LAKIN: Can you refile that?

MS. CLARKSON: I'm checking, Don. I don't know.

MR. LAKIN: Just tell them you made a mistake.

MS. CLARKSON: Yeah. I'll tell them it was all me.

MS. BATTAGLER: So the Missouri Law Exam and the notice of intent to apply both have to be --

MS. DUNN: Right.

MR. OTTO: Just to throw out there also, I'm running into a lot of people as I do seminars and stuff like that who are figuring out, Oh my gosh, I need to be a preneed agent, and they didn't know they needed to be. So they haven't even filled out a notice of intent yet, but now they've realized I better do that because they haven't thought of it before thinking it through.

Because it says anybody who sells or solicits a preneed. Solicit is a pretty broad word and
once they start thinking about who the seller is and
who's soliciting, they go, Gosh, I've got to have more
people than I thought be preneed agents. So the pool
of people, I think, that are going to want to take this
test is broader than the notice of intents you got in.

MS. DUNN: We already got more notice of
intents than we ever dreamed on agents, so --

MS. GERSTEIN: How many?

MS. DUNN: Four hundred and fifty, and
that's agents alone.

REPRESENTATIVE MEADOWS: Mr. Chairman?
CHAIRMAN VERNON: Yes, sir?

REPRESENTATIVE MEADOWS: I'm watching
that lady over there, our stenographer. Earlier, there
was about five, six people talking at one time and she
was like, going like this (indicating), gasping for
air, poor thing.

CHAIRMAN VERNON: I'm sorry.

MR. SPEAK: That's nitrous she's got in
there.

CHAIRMAN VERNON: Just yell shut up.

MS. BATTAGLER: I guess our question is
do you think that they'll get their background check
done and letter of eligibility before the end of
November, so that they can try it first by the end of
November, so they have 30 days to take it by the end of December?

   MS. DUNN: Well, that's our priority. But I knew that individuals would be asking for this extension because most people want more than one opportunity.

   MS. RUSSELL: Sure.

   MS. BATTAGLIER: Oh, yeah. Because it's a lot to study. It takes the funeral directors how long to study for that?

   MR. SPEAKS: And 80 percent of them fail.

   MR. OTTO: Who do not take my class.

   MR. SPEAKS: Ninety percent if you take his class.

   MR. MCCULLOCH: Yeah, I was going to say.

   MS. BATTAGLIER: Can you write a rule to just to add an extension time just for agents?

   MR. KRAUS: I mean, I think Connie's checking to see what procedure is as to whether you would amend a rule -- an emergency rule, you withdraw the emergency rule and file another one, or do you just file one in its place. Those are really procedural matters I think.
The decision for the Board is whether you want to change the date, and if you do, what do you want that change to be. And then if you decide to do that, then you can give a directive to the staff to make that happen however we need to try to make that happen.

CHAIRMAN VERNON: John actually already made the motion to do it, but the date wasn't there.

MR. MCCULLOCH: Through the end -- I said the first quarter, through the end of March.

MS. DUNN: But John, I would like to look at this rule, depending on what Connie says because like on the notice of intent, on parent five, it -- I mean, we may want to change more than one date. I'm not sure. I want to make sure I'm clear.

MR. MCCULLOCH: Okay.

MS. DUNN: Because it says, Any applicant who has filed a notice of intent must file their completed application for licensure or registration with the Board no later than October 31st. Is that still something we want to leave in place?

CHAIRMAN VERNON: You guys actually said, if I recall, that's not really that much of a concern. It was just the ability to take the test.
MS. DUNN: Well, now, Amy said and Don said and John said that there are people out there that have no idea.

MS. BATTAGLIER: But even like Sharon said if they didn't file -- if they have no idea, then they didn't file their notice of intent either.

MS. DUNN: Right.

MS. BATTAGLIER: Which means that they shouldn't be selling anyway, so --

MR. STALTER: That's right because they're under the new --

MR. MCCULLOCH: Yeah. I don't think that's as big a deal as --

MS. BATTAGLIER: Yeah. I don't think it is.

MR. MCCULLOCH: -- giving the folks that we know have filed the notice of intents, to give them that opportunity to get that testing taken care of.

MS. DUNN: Okay. I just want to make sure to cover all dates.

MR. MCCULLOCH: It'll help you guys to filter all this stuff, check all these people out.

MS. DUNN: Yeah, yeah.

MR. BAKER: I have a question for Becky. You mentioned a while ago that you had received 450?
MS. DUNN: Agents only, notice of

MR. BAKER: Okay. So these were not

funeral directors --

MS. DUNN: And about 400 -- and about

400 funeral director agents.

CHAIRMAN VERNON: Eight hundred plus.

MR. BAKER: So there's still a lot more

out there because I know that we had a couple people on

vacation. We said, well, the applications will be

coming. We'll just do it all in one shot. So we've

got what. 2,500 --

MS. DUNN: And this is just notice of

intents.

MS. BATTAGLIER: Oh, so you haven't

counted the regular applications yet?

MS. DUNN: No. We don't have that many

applications in yet.

MS. BATTAGLIER: You'll get them all

after November 1st.

CHAIRMAN VERNON: And the magic answer?

MS. CLARKSON: The magic answer is we

can withdraw an emergency rule and refile it, but the

effective date does not change, so I think that's okay.

MR. OTTO: That's a good answer.
MS. RUSSELL: Good news.

CHAIRMAN VERNON: Okay. So John made a
motion we go to March 31st, end of the first quarter,
to be able to take the agent test. Give them that much
more latitude is all we're talking about.

MS. CLARKSON: Make sure that our
expiration date matches that --

MS. DUNN: Well, what I'd like to do,
John, can we look at this rule to make sure we get it
right?

MR. MCCULLOCH: Yeah. Oh, yeah. Please
do.

MS. DUNN: Okay. Everybody can pick up
the rule to make sure we get this right.

MS. RUSSELL: Which one are you on, the
notice of intent or the --

MS. DUNN: The notice of intent.

MS. RUSSELL: All right.

MS. DUNN: And I'm looking at paren
seven right now. Page 3.

CHAIRMAN VERNON: So you made a motion
we give agents only until the end of March to take
their test, just the test. John makes the motion.

MR. KRAUS: And I assume that they'll
have that long to do that. You're just doing the
taking of the test. Right? Not also extending the
notice of intent?

MS. RUSSELL: Oh, you're not extending
the notice of intent?

CHAIRMAN VERNON: Well, I thought we
basically decided that was really not that big a deal.

MR. OTTO: No. That's the--

MS. EULER: So they can continue to
practice under the notice of intent until the end of
March.

MR. MCCULLOCH: They'll continue on just
like --

MR. KRAUS: Right. My understanding of
what the discussion and of the motion might be is that
the December 31, 2009 date, and the notice of intent
rule, and the Missouri Exam rule for agents will be
extended to March 31, 2010; so there are the rule
changes that we need to do.

MR. MCCULLOCH: So in other words, if
understood, so people will still be able to send in a
notice of intent.

MR. KRAUS: Agents would still be able
to send in a notice of intent --

MR. MCCULLOCH: Still be able to do that
process.
MR. KRAUS: -- and operate under that notice of intent until their application is approved or until March 31, 2010.

MR. MCCULLOCH: Okay. I would change my motion to say that. That sounds better.

MR. HRAKER: And I'll second that.

MR. REINHARD: (Nodded head.)

CHAIRMAN VERNON: Okay. Jim says yes.

Todd says --

MR. LARKIN: Connie has a question.

MS. CLARKSON: No. I just want to clarify -- I just want to make sure that -- clarify that the notice of intent still has to be received at the original date, which was October 31st.

CHAIRMAN VERNON: October 31st.

MR. KRAUS: And what Connie and I were talking about earlier is because of the way the dates fall and the effect of withdrawing the rule is we would actually, with regard to the notice of intent rule, we would withdraw that one; remove agents from it entirely; refile it, and put that in place.

MS. CLARKSON: Right.

MR. KRAUS: Then we would do a nearly identical notice of intent rule just for agents that has the March 31, 2010 date.
MR. MCCULLOCH: So if I understand right, a person on November 15 sends in a notice of intent, they can do that and they've got now until March 31, 2010?

MS. RUSSELL: No. They have to file --

MS. BATTAGLIER: No. They still have to file their notice of intent by October 31st.

MR. MCCULLOCH: But you didn't say that.

MS. EULER: Yes.

MS. BATTAGLIER: But that -- your authorization, if they filed that, the authorization from that allows them to practice or to sell until March 31st or until they take the test.

MS. CLARKSON: That's what my question was, was there clarity on when that application of notice of intent had to be received in order to allow them to practice until March 31st.

MR. KRAUS: I don't know. What do you want?

MR. MCCULLOCH: Well, I think that we thought that it really wasn't a big deal, but if you're saying that that's how it needs to be written, that's fine.

MR. KRAUS: No. It can be done either way.
MS. CLARKSON: I think it can be done either way as long as we're all clear on when that notice of intent --

MR. MCCULLOCH: If it's okay, then go ahead and extend it.

MS. BATTAGLER: Actually, it's not even the notice of intent --

MS. CLARKSON: Well, it is for the test.

MS. BATTAGLER: -- be filed, but then the application --

MS. CLARKSON: Right.

MS. BATTAGLER: -- had to be filed.

MS. CLARKSON: There's two issues: How soon do they have to file the notice of intent and does October 31st -- is that okay?

MR. MCCULLOCH: If it can be extended, we extend it.

MS. CLARKSON: And then the extension for the examination is the second issue and we've clarified that can be handled. And either one of those can be addressed in that preneed agent rules --

MR. MCCULLOCH: It would be to our advantage to extend that date.

MS. BATTAGLER: I understand that. But what I'm just trying to clarify that it's not
necessarily the notice of intent that we're looking --
that you're --

MR. OTTO: Yeah. Yeah, it is. Because
here's a scenario. Somebody has not filed anything
yet; November 15th, they decide, Oh, I'd like to be a
preneed agent and I want to start right away.

MS. BATTAGLER: So they file a regular
application like everybody else.

MR. OTTO: But they wouldn't be able to
do -- they wouldn't be able to practice right away.

MS. EULER: Yes.

MS. BATTAGLER: Yes, they can.

MS. EULER: Well, that's right.

MS. BATTAGLER: Oh, no.

MR. MCCULLOCH: They still need to send
in their notice of intent.

MS. EULER: The point of the notice of
intent was not to enact a temporary licensure procedure
for all time, it was to fix the time frame before the
application forms were available. Now that the
application forms are available, if you have not
previously filed a notice of intent, you just need to
apply for a license as normal.

MR. MCCULLOCH: I got you. Okay. That
makes sense.
MR. SPEAKS: But you can't sell until it's approved.

MS. EULER: Right.

MR. MCCULLOCH: I understand that. So now you just file your regular form.

MS. EULER: Right.

MR. MCCULLOCH: I got you.

MS. BATTAGLER: And it's that application that gives you the right to sell until --

MR. MCCULLOCH: Sell now --

MS. BATTAGLER: -- until you take your test or until March 31st --


MS. BATTAGLER: See the notice of intent is after the --

MR. MCCULLOCH: I understand. I was totally --

MS. DUNN: But Amy, what you said is the application doesn't give you the right to practice, the notice of intent does.

CHAIRMAN VERNON: You have to file both.

MR. OTTO: Yeah. So here's the weird scenario --
MS. EULER: Right.

MS. BATTAGLER: Well, until October 31st.

MS. EULER: If you do not file your notice -- if you file your notice of intent -- if you get a job on January 2nd, you cannot file the notice of intent on January 2nd to sell preneed until you get your application in, because the application forms are available now.

MR. MCCULLOCH: So now you just file --

MS. EULER: You need to apply --

MR. MCCULLOCH: -- the application form.

MS. EULER: You need to apply for your registration, and then take the test, and then wait until your registration is passed in order to sell.

MR. OTTO: Here's the anomaly that we cannot fix, although we can change the date when it happens; somebody files a notice of intent October 30th, along with their application. They can be selling preneed --

MS. RUSSELL: Until March 31st.

MR. OTTO: -- immediately until whenever this pro-- until March 31st --

MS. EULER: Uh-huh.

MR. OTTO: -- if they wanted to without
getting a license.

MS. EULER: Right.

MR. OTTO: While the person who files their application on November 1 can't do that.

MS. EULER: Right.

MR. OTTO: We can shift when that anomaly occurs, but there will always be that anomaly.

MS. EULER: Right.

MR. MAHN: So the intent form needs to correlate with the date of the cutoff date.

MS. EULER: The intent form needs to stay the way it is. You had to file your intent by the date of the original rule, but we can extend the amount of time that that notice -- that valid notice of intent is good for; and that's what you're doing. You're extending it until the time they pass the test or --

MR. KRAUS: So leave the filing time for notice of intent as October 31st.

MS. EULER: Yeah.

MS. DUNN: But now, Don says there's a lot of people out there that still don't know anything about --

MS. EULER: Well, and that's the way it's going to be --

MR. OTTO: You're going to have that
problem no matter when.

    MS. DUNN: Okay.

    MS. EULER: There's nothing we can do about that.

    MS. BATTAGLER: In that case they just file a regular application --

    MR. MCCULLOCH: The only problem is they won't have the ability to sell though.

    MS. BATTAGLER: -- whenever they figure it out.

    MR. MAHN: They can't sell though.

    MS. BATTAGLER: That's right.

    MS. RUSSELL: If it's after November 1st.

    MS. EULER: Just like they can't be a funeral director until their application's approved and they pass the test.

    MS. BATTAGLER: Right.

    CHAIRMAN VERNON: All right.

    MS. EULER: Do you want to extend the time that the notice of intent is good for, which is what I'm understanding, but that's just me. So you want to extend that the notice of intent is good until the end of March or March 1st or whatever and give them until that time to take the license; is that what you
want to do?

CHAIRMAN VERNON: That's what we want to do.

MS. EULER: Okay.

MR. MCCULLOCH: That will be good. That way people can come in and start selling --

MR. KRAUS: And to be clear, that's without changing the date by which they must file a notice of intent.

MS. EULER: Right.

MR. KRAUS: Which is October 31st.

CHAIRMAN VERNON: Can we fix that?

MR. MCCULLOCH: Yeah, can we fix that?

MS. EULER: Do you want to?

MR. KRAUS: You can.

MR. MCCULLOCH: I thought you -- that's what you were saying you wanted to do, change that date.

CHAIRMAN VERNON: Well, that's a separate issue. We definitely want the notice of intent to go through the end of March and the testing through the end of March.

MS. EULER: For agents only.

CHAIRMAN VERNON: For agents only; so we know we want that.
Now, the next question, do we want to change the notice of intent October 31st date for agents only; that they have more time to file a notice of intent, or that's it?

MR. MCCULLOCH: I would prefer that.

CHAIRMAN VERNON: Okay. So how is -- yes, that's fixable? What do we need to do for that?

MS. CLARKSON: It's the same --

MR. KRAUS: I mean, it's the same thing.

We can make that change if you want. I think the argument that agents need more time to file a notice of intent, I think providers and sellers could make the same argument.

MS. EULER: Yeah. Yeah.

CHAIRMAN VERNON: Yeah, but they --

MR. KRAUS: Not to throw a corkscrew --

MR. MCCULLOCH: Well, they're not here making it.

MS. BATTAGLIER: Well, the reason we didn't say anything about the providers and sellers is because I know they received a packet.

MS. DUNN: Yes. The providers and sellers received a mailing.

MS. EULER: The agents are all working for a seller. So if you were a seller and you had
agents working for you, I would think you would have
told them. It's not like agents are free agents.

    MS. BATTAGLER: Some of them -- like we
have one that only -- just whenever he happens to get
a, you know, somebody he -- I mean, he may not go into
the office for a month and a half.

    MS. EULER: But --

    CHAIRMAN VERNON: So how much more time
do you want to give to file their --

    MS. EULER: Or do you want to?

    CHAIRMAN VERNON: -- notice of intent
for an agent or cut them off at October 31st?

    MR. MCCULLOCH: I'm listening to the
gallery back here, but -- y'all don't think that should
change?

    MR. SPEAKS: I would just leave that
alone, yeah.

    MR. BAKER: What do they know about
selling preneed contracts --

    MR. MCCULLOCH: If they know already?

    MR. BAKER: -- if they don't already
know to send in the notice of intent?

    MS. EULER: That's right.

    MS. RUSSELL: Good point. That's a good
point, Bob.
MS. EULER: And they can submit an application for registration at this point.

MR. SPEAKS: I think Sharon was making a great point there in her side conversation with Amy, which is the seller is the employer in this case. It's up to the employer to inform their employees what they need to do.

MR. MCCULLOCH: Okay. So we'll just leave that alone and go back to the original motion just extending the time to take the test to the 31st.

MS. EULER: And the effectiveness of the notice of intent for agents so that they can continue to work.

MR. MCCULLOCH: Yes.

MR. BAKER: If you got it in on time.

MR. MCCULLOCH: If you got it in on time.

MS. EULER: If you got it in on time.

MR. MCCULLOCH: Right. I got that.

CHAIRMAN VERNON: Okay. There's the motion.

MR. MAHN: Second.

CHAIRMAN VERNON: There's the second.

You already said yes, didn't you?

MR. REINHARD: Yeah.
CHAIRMAN VERNON: All right. And Gary left. So there you have it.

This really will just fall as an FYI and you all surely get this, an agent can't be licensed until their seller is licensed.

MR. MCCULLOCH: Yes.

(Discussions were held off the record.)

CHAIRMAN VERNON: Okay. Since we're doing emergency rules -- since we're talking about emergency rules, I'm going to try to do this and I really would like to make this short and sweet and simple.

We have discovered in the thought of an insurance-funded contract, that -- just a housecleaning issue, that we need a rule, we've always intended for it to be a rule, that in the statute under 436.445, sub -- I'm sorry -- 450, number two, there is the little word that any amount required or authorized by this chapter or by rule to collect the $36 on the insurance-funded contract, we just need to put it in print. So if somebody will just make that motion, we'll go home.

MR. MCCULLOCH: I'll make that motion.

MR. REINHARD: No. No, no, no.

CHAIRMAN VERNON: In a minute.
MR. KRAUS: It's on page 23 of Senate Bill 1.

MR. MCCULLOCH: You don't want that?

MR. REINHARD: We're going to make it now, go through that one more time.

CHAIRMAN VERNON: In the insurance-funded contract --

MR. REINHARD: Okay.

CHAIRMAN VERNON: -- we just need the rule on paper that says that we can collect the $36 for the consumers because of the -- what the words I just read: For any amount required or authorized by this chapter or by rule.

MR. KRAUS: The statute -- I think the Board has always intended that sellers could collect $36 on insurance-funded contracts. The statute actually prohibits any other fees other than those by the insurance company from being collected unless there's a rule.

CHAIRMAN VERNON: Keyword was the insurance company.

MR. KRAUS: That's what it's saying. So if there's a rule, then the seller can collect it. If there's a rule saying the seller can collect 36 bucks for insurance-funded preneed contract, then they could.
But if there's not a rule to that effect --

MR. REINHARD: If it's tied to insurance policy -- go ahead, Earl.

MR. KRAUS: -- you can't.

MR. MAHN: Any insurance.

MR. REINHARD: Any insurance. So like --

MR. KRAUS: Any insurance on a preneed contract.

MR. MAHN: Any insurance if there's a contract.

MR. MCCULLOCH: But there has to be a contract with it.

MR. REINHARD: It has to be a contract with goods and services.

MR. KRAUS: That's right.

MS. EULER: Right. This is not addressing whether it's a preneed contract --

MR. KRAUS: We're not getting into that other issue.

MS. EULER: -- it's just when you have an insurance-funded preneed contract, that the rule would authorize the money to be collected from the consumer that would be required on the per contract fee
at the end of the reporting period. Right now that's the $36.

MR. KRAUS: Right. Because without that rule, you can't collect the $36 for an insurance-funded preneed contract; whereas you could for trust funded or joint account.

MR. MAHN: That's right.

MR. REINHARD: And do you want to clarify contract? The contract says it's going to be applied towards the funeral --

MS. EULER: No.

MR. REINHARD: -- at a future date? That doesn't count?

MS. EULER: We're not going to go into that. It's just when there's an insurance-funded preneed contract, and we'll discuss what constitutes an insurance-funded preneed contract in another rule.

MR. RENHARD: Oh, thank you. I got what you're saying. Second.

CHAIRMAN VERNON: Who motioned?

MR. MCCULLOCH: I motioned.

CHAIRMAN VERNON: John motioned, actually Gary seconded.

MR. REINHARD: That's fine.

CHAIRMAN VERNON: All right.
MR. REINHARD: Yes.

CHAIRMAN VERNON: Todd?

MR. MAHN: No.

CHAIRMAN VERNON: Joy?

MS. GERSTEIN: This -- yes.

CHAIRMAN VERNON: There's a yes. Go ahead; speak.

MR. OTTO: No, no. I was just saying you already voted that the funeral home is going to have to pay the State of Missouri the $36.

MS. EULER: Right.

MR. OTTO: This just allows you to reimburse yourself, if you want, you don't have to, from the consumer.

CHAIRMAN VERNON: That's right.

MR. REINHARD: Is that all right with you?

MR. OTTO: Oh, yeah. You got to do that; otherwise it's not fair to the insurance people.

CHAIRMAN VERNON: Anything else open to the Board? All right. I hear nothing else from open, so we will understand that open is concluded. I need a motion from the Board to go into closed.

MR. MAHN: First.

CHAIRMAN VERNON: There's first.
MR. FRAKER: Second.

CHAIRMAN VERNON: There's second.

MR. REINHARD: (Nodded head.)

CHAIRMAN VERNON: Yes.

MS. GERSTEIN: (Nodded head.)

CHAIRMAN VERNON: Yes. All right.

MS. EUER: And for what purpose?

CHAIRMAN VERNON: For all of the things that you go into closed for.

MS. EUER: That are listed in the agenda?

CHAIRMAN VERNON: That are listed in the agenda. All of that. Thank you.

(The meeting was concluded at 4:40)
CERTIFICATE OF REPORTER

I, Kristy B. Bradshaw, CCR within and for the State of Missouri, do hereby certify that the foregoing meeting was taken by me; that the testimony of said meeting was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this meeting was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Kristy B. Bradshaw, CCR

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