State Board of Embalmers and Funeral Directors

December 7-8, 2016

Holiday Inn Country Club Plaza
One East 45th Street
Kansas City, MO 64111

OPEN MINUTES

The meeting of the State Board of Embalmers and Funeral Directors was called to order by Collin Follis, chairman, at 8:34 a.m.

Roll Call
Board Members Present
Collin Follis, Chairman
Kenneth McGhee, Vice President
Jerald Dickey, Secretary
Scott Meierhoffer, Board Member
Brad Speaks, Board Member

Board Members Absent
Public Member, vacant

Staff Present
Sandy Sebastian, Executive Director
Carla Volkart, Administrative Assistant
Lori Hayes, Inspector
Sharon Euler, Division Legal Counsel
Edwin Frowntilter, Assistant Attorney General – for portion of meeting relating to hearing

The order of the items reflected in these minutes is not necessarily reflective of the order in which the items were reviewed and discussed by the board.

Approval of Agenda
A motion was made by Brad Speaks and seconded by Scott Meierhoffer to approve the amended open agenda. Motion carried with Jerald Dickey and Kenneth McGhee voting in favor with no votes in opposition.

Move to Closed
A motion was made by Kenneth McGhee and seconded by Jerald Dickey to move to into closed session pursuant to number 2 of the attached motions to close. Motion carried with Brad Speaks and Scott Meierhoffer voting in favor with no votes in opposition.

Vice Chairman Election
A motion was made by Jeral Dickey and seconded by Scott Meierhoffer to nominate Kenneth McGhee for vice chairman. Motion carried with Brad Speaks voting in favor with no votes in opposition.

Financial Examination Committee Appointments
Collin Follis named appointments to the committee including himself, Jerald Dickey and Brad Speaks.

Executive Director Report
- Renewal Fee
  Sandy stated the fee rule had been filed to reduce the renewal fee to $5 for the upcoming renewal cycles in 2017-2018 and to reduce some of the application fees and that the process was moving forward.
• Financial Report
Sandy discussed the FY2017 monthly financial report from the division with the board regarding the expenditures and revenue to date covering the period through October 31, 2016. She stated the projections had not changed from FY2016.

• Licensee Reports (new, closed/ceased, disciplined)
Sandy stated that the license reports for new licenses, closed licenses and disciplinary actions that had become effective since the last board meeting were in the meeting material and asked if the board members had any questions relating to such. There were none.

• Upcoming Conferences
Sandy informed the board that the division is currently not approving board members to travel until the new administration and division director are appointed. She stated the Federation of Associations of Regulatory Boards (FARB) meeting was scheduled for January 26-29, 2017 and the International Conference of Funeral Service Examining Boards is scheduled for March 1-2, 2017. Sandy asked that if any of the board members would like to attend either or both meetings to let her know so the appropriate forms can be completed.

• Staff Update
Sandy informed the board that the staff’s part-time position has been reclassified and will assist with applications as needed. The position will be posted soon.

• 2017 Board Meeting Dates/Locations
The board discussed possible 2017 board meeting locations and the decision was to keep the March and September meetings in Jefferson City, June meeting in St. Charles, and December meeting in Kansas City. Sandy asked that the board members let her know what dates they would not be available.

Legal Counsel Report
Sharon Euler informed the board of the following legal matters:
• In the National Prearranged Services civil case, as of the date of this meeting, a decision had not been made by the Circuit Court of Appeals. Brent Cassity is scheduled to be released in May. The individuals in jail continue to make monthly restitution payments.
• The Administrative Hearing Commission upheld the board’s decision to issue Karley Boston’s funeral director and embalmer licenses on probation.

Approval of Open Minutes
A motion was made by Brad Speaks and seconded by Scott Meierhoffer to approve the following minutes -

• September 14-15, 2016 Board Meeting Minutes
• October 26, 2016 Board Conference Call Minutes
Motion carried with Kenneth McGhee and Jerald Dickey voting in favor with no votes in opposition.

Letter from John Moore regarding Funeral Director Apprenticeship
The board reviewed a letter submitted by John Moore following the board’s September 14-15, 2016 meeting, requesting the board consider requiring a one year apprenticeship as a licensure requirement for those applicants applying with a funeral directing certificate of specialization. Sandy stated to change licensure requirements legislation would need to pass to include such and that she anticipated some of the items that the board would need to consider what supporting information it would use to seek to increase the requirements for licensure. She stated she had spoken with Mr. Moore regarding the legislature process. This item was for informational purposes only; no action was necessary.

Draft Regulation Proposed By Bill Stalter- “Seller Fees and Charges on Preneed Contracts” (Attachment A)
A motion was made by Scott Meierhoffer and seconded by Jerald Dickey for Brad Speaks to work with Mr. Stalter along with board staff and counsel to work on a revised proposed draft regulation to include all funding sources. Motion carried with Brad Speaks and Kenneth McGhee voting in favor with no votes in opposition.
Open Session/Discussion
A member of the audience discussed with the board their desire for the location of the board meetings and open agenda to be posted further in advance. Following discussion a motion was made by Scott Meierhoffer and seconded by Brad Speaks to direct the board staff to post the open agendas for meetings at least 10 working days in advance of the meeting or as soon as known with exceptions of extenuating circumstances. Motion carried with Jerald Dickey voting in favor. Kenneth McGhee voted no in opposition.

A member of the audience discussed a proposed rule from the Department of Insurance regarding preneed advertisement. They stated in the rule if a preneed is funded by insurance, then it must include disclosures. There was a comment period that had already taken place. Sharon stated that the board office had communication with staff in the insurance division of the department regarding any concerns associated with conflicts with chapter 436 as regulated by the board.

Members of the audience stated there was confusion on the preneed seller annual reporting form as to whether or not the trust fund portion should include pre Senate Bill 1 trusts (those in existence prior to August 28, 2009). There was discussion by the board that the section should include all trusts and staff stated they would review the form and make any necessary adjustments to the annual report to clarify that such should be included.

A member of the audience expressed their opposition to the board’s current financial examination process relating to looking at all contracts.

Move to Closed
A motion was made by Brad Speaks and seconded by Kenneth McGhee to move to into closed session pursuant to numbers 1, 2, 7, 8 and 9 of the attached motions to close. Motion carried with Scott Meierhoffer and Jerald Dickey voting in favor with no votes in opposition.

Bryan Larson-Probation Violation Hearing- Case No. EMB 17-001-PV
A probation violation hearing was held and Sharon Euler represented the board. Edwin Frownfelter from the Attorney General’s office acted as the board’s legal advisor. Bryan Larson did not appear nor did anyone on his behalf.

Sondra Shipman and Sondra Shipman dba Shipman Funeral Home- Probation Violation Hearing- Case No. 17-002-PV
A probation violation hearing was held and Sharon Euler represented the board. Edwin Frownfelter from the Attorney General’s office acted as the board’s legal advisor. Sondra Shipman did not appear however Derek Shipman appeared and was not represented by counsel. Sharon Euler and Derek Shipman made a joint request for a continuance of the probation violation hearing for Sondra Shipman and Sondra Shipman dba Shipman Funeral Home. Collin Follis granted the request. Mr. Frownfelter stated that the licensee would be sent a letter with the terms and conditions with what needs to be resolved.

Derek Shipman-Probation Violation Hearing- Case No. EMB 17-003-PV
A probation violation hearing was held and Sharon Euler represented the board. Edwin Frownfelter from the Attorney General’s office acted as the board’s legal advisor. Derek Shipman appeared and was not represented by counsel. Sharon Euler and Derek Shipman made a joint request for a continuance of the probation violation hearing for Derek Shipman and Sondra Shipman and Sondra Shipman dba Shipman Funeral Home. Collin Follis granted the request. Mr. Frownfelter stated that the licensee would be sent a letter with the terms and conditions with what needs to be resolved.

Move to Closed
A motion was made by Brad Speaks and seconded by Jerald Dickey to move to into closed session pursuant to numbers 1, 2, 7, 8 and 9 of the attached motions to close. Motion carried with Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition.
Adjourn
A motion was made by Brad Speaks and seconded by Scott Meierhoffer to adjourn at 12:27 p.m. on December 8, 2016. Motion carried with Kenneth McGhee and Jerald Dickey voting in favor with no votes in opposition.

Executive Director

Approved by the board on 9.22.2017
MOTIONS TO GO INTO CLOSED SESSION

1. **DISCIPLINE**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (1) RSMo, and 324.001.9 RSMo for deliberating on discipline.

2. **LEGAL ACTIONS/LITIGATIONS/PRIVILEGED COMMUNICATIONS**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under 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.

3. **PROMOTING/HIRING/DISCIPLINING/FIRING EMPLOYEES**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (3) RSMo discussing hiring, firing, disciplining or promoting an employee of this agency.

4. **DIAGNOSIS/TREATMENT OF DISCIPLINED LICENSEES**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (5) and Section 324.001.8 RSMo for proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees.

5. **EXAMINATION MATERIALS**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (7) RSMo for reviewing testing and examination materials.

6. **EMPLOYEE PERFORMANCE RATINGS**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (13) RSMo for making performance ratings pertaining to individual employees.

7. **APPLICATIONS**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and Section 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.

8. **CLOSED MINUTES**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021, Subsection (14) and 324.017 RSMo for the purpose of reviewing and approving the closed minutes of previous meetings.

9. **COMPLAINTS/INVESTIGATIVE REPORTS/AUDITS**
   I move that this meeting be closed and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under Section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant.

Revised 09-11

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20 CSR 2120-3.530 Seller Fees and Charges on Trust-Funded Preneed Contracts

PURPOSE: This rule clarifies that neither Section 436.430.2 nor Section 436.450.2 does not prohibit a seller from including in a preneed contract a fee or charge that is in compliance with the Federal Trade Commission’s Funeral Rule.

(1) A seller may include in a preneed contract any fee or any charge that is disclosed on the seller’s general price list, and which has not been found by the Federal Trade Commission to violate 16 CFR Part 453.

(2) Any fee or charge that is assessed as an additional cost to the consumer to control or limit the future purchase price of the goods or services described in the trust funded preneed contract shall be excluded from the Section 436.430.2 origination fee and from Section 436.430.3 sales expense, so that one hundred percent (100%) of such fee or charge is deposited to trust, and maintained in trust until the cancellation or performance of the contract.