The meeting of the State Board of Embalmers and Funeral Directors was called to order on October 18, 2017 by Kenneth McGhee, chairman, at 10:00 a.m.

**Roll Call**

**Board Members Present**
Kenneth McGhee, Chairman
Gary Fraker, Vice Chairman
Jerald Dickey, Secretary
Scott Meierhoffer, Board Member (phone) – *Left meeting at 3:00 p.m. on October 18, 2017 but was present October 19, 2017 – motions reflect presence*
James Reinhard, Board Member

**Board Members Absent**
Vacant, Public Member

**Staff Present**
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Thomas Townsend, Division Legal Counsel
Sarah Ledgerwood, Division Legal Chief Counsel

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 Gary Fraker and seconded by James Reinhard to approve the open agenda. Motion carried with Jerald Dickey, Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition.

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

**Presentation of Plaques to Past Members Recognizing Prior Service**
On behalf of the board, Kenneth McGhee presented Brad Speaks and Gary Fraker plaques recognizing their prior service to the board.

**Discussion of Financial Examination Review Process – Committee Recommendation**
The board discussed a recommendation dated January 26, 2017 made by the financial examination committee to the full board to modify the review process for the financial examination reports to include the committee reviewing each report prior to a letter going out to the licensee. Following discussion, a motion was made by Jerald Dickey and seconded by James Reinhard to accept the committee’s recommendation and to include the committee not reviewing the examination reports that have no exceptions noted and letters being sent to licensee’s notifying them the examination is closed. Motion carried with Gary Fraker, Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition.
Appointment of Financial Examination Committee
Kenneth McGhee asked for volunteers to serve on the committee. There was a suggestion that Brad Speaks serve on the committee and the board sought legal advice in the matter. A motion was made by Scott Meierhoffer and seconded by James Reinhard to move into closed session for #2 of the attached motions to close. Motion carried with Gary Fraker, Jerald Dickey and Kenneth McGhee voting in favor. Upon returning to open session, the board continued the discussion and the chairman against asked for volunteers. Following the lack of volunteers, the chairman appointed Gary Fraker, James Reinhard and himself to the committee. Following lack of a volunteer to serve as chairman of the committee, Kenneth McGhee stated he would serve as committee chairman.

Executive Director Report
- Financial Report
  Sandy reported that included in the board’s materials were the June 30, 2017 and the August 31, 2017 financial statements. She shared that the June, 2017 statement reflected an ending fund balance of $2,892,599.25 and reflected a total of $597,849 in revenue collected and a total of $120,874.30 in expense and equipment expenditures and $616,151.93 in total transfers & licensure system expenses. Sandy indicated that the August statement did not include the projections but did reflect a total of $7983 revenue received to date and $16,511.70 in expense and equipment expenditures and $93,562.23 in total transfers to date with an ending fund balance of $2,790,418.32. Sandy reminded the board that it had pursued a regulation to reduce renewal fees for this renewal period as well as other permanent fee reductions to reduce the board’s fund.
- Licensee Reports
  Sandy stated that there were reports of newly licensed, recently disciplined and closed/ceased licensees in the materials as a FYI. There were no questions from the board.
- Upcoming Conferences
  - Federation of Associations of Regulatory Boards - January 25-28, 2018
  - The International Conference of Funeral Service Examining Boards – February 28-March 1, 2018
  Sandy reminded the board of the upcoming conferences and asked that if any members were interested in attending to please let her know.

December, 2017 Board Meeting Dates
The board discussed potential dates for the next meeting and there was a consensus to attempt to schedule the next meeting on December 6-7, 2017 and start early on the morning of the 6th.

Approval of Open Minutes
A motion was made by Scott Meierhoffer and seconded by Gary Fraker to approve the September 22, 2017 minutes. Motion carried with James Reinhard and Kenneth McGhee voting in favor with no votes in opposition. Jerald Dickey abstained from voting.

Review of Regulations – Red Tape Reduction (Attachment A)
Sandy discussed with the board the proposed changes to the current regulations in response to the red tape reduction process. Sandy stated that the proposals had been reviewed by Sarah Ledgerwood, chief counsel for the division. Following review and discussion, a motion was made by Jerald Dickey and seconded by Scott Meierhoffer to accept the proposal as presented. Motion carried with Gary Fraker, James Reinhard and Kenneth McGhee voting in favor with no votes in opposition.
Review of Public Comments – Executive Order 17-03 (Attachment B)
Sandy reported that the board held the two hearings as required by the executive order on August 14 and 15, 2017 and there were some individuals in attendance that presented verbal comments and written comments were received following. Sandy also reported that the board’s website had information on it to accept public comments and those comments that had been received and are included along with the current regulation and a draft regulation relating to the same previously approved by the board. It was the consensus of the board to table the matter to the next meeting of the board.

Open Session/Discussion
A member of the public asked for clarification regarding the change in legal counsel for the meeting. Sarah Ledgerwood, chief counsel for the division, was present and addressed the changes in her legal team and how the board would be represented by all members of the division’s legal team.

Board Member Orientation
Sarah Ledgerwood, chief counsel for the division, did a brief orientation for the board members that included the complaint and discipline process, conflict of interest and ethics, and the Missouri Sunshine Law.

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

Adjournment
A motion was made by Gary Fraker and seconded by James Reinhard to adjourn at 1:16p.m. on October 19, 2017. Motion carried with Jerald Dickey, Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition.

Executive Director 

Approved by the board on 12/13-14/2017
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 deliberation 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
20 CSR 2120-1.010 General Organization

PURPOSE: This rule describes the board’s operation and the methods and procedures where the public may obtain information and make submissions or requests.

(1) Whenever used in this division, the word board means the State Board of Embalmers and Funeral Directors.

(2) The board is a unit of the Division of Professional Registration.

(3) The board is authorized by section 333.111.1, RSMo to adopt rules necessary for the transaction of its business and for the standards of service and practice to be followed in the professions of embalming and funeral directing.

(4) The board has at least two (2) regularly scheduled business meetings each year and such other meetings as determined by the board. The time and location for all board meetings may be obtained by contacting the board office at PO Box 423, Jefferson City, MO 65102-0423.

(5) The meetings of the board shall be conducted in accordance with Robert’s Rules of Order, Newly Revised, 10th Edition, so far as it is compatible with the laws of Missouri governing this board or the board’s own resolutions as to its conduct.

(6) All board meetings will be open to the public except as provided by law.

(7) Members of the public may obtain information from the board, or make submissions to the board, by writing the board at PO Box 423, Jefferson City, MO 65102-0423 or by visiting http://pr.mo.gov/embalmers.asp.

(8) Examinations. After verification and approval by the board, application, scheduling, administration and payment for any examination required for licensure from the board shall be made to the board’s testing service, currently the International Conference of Funeral Service Examining Boards, Inc. The testing service shall approves applications upon the board’s verification and approval.

(A) Notification of intent to take an examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination, unless otherwise stated in a specific regulation. At its discretion, the board may waive such notice requirement for examination candidates for good cause, provided that no waiver can be provided by the board that may violate the rules of the testing service. If a reexamination is required or requested, there is a mandatory thirty (30)-day waiting period between each Missouri reexamination date.

(B) All Missouri examinations may be provided in a computer-based testing format, except oral examination. Oral examinations will be held at the location designated by the board. Other examinations shall be held at the locations designated by the testing service. A complete listing of the conference’s examination sites is at http://www.cfseb.org or is available at the board’s office.

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


NOTES

The remaining terms “shall” and “required” are essential for the protection of the public.
20 CSR 2120-1.020 Board Member Compensation

PURPOSE: This rule fixes the compensation for the members of the State Board of Embalmers and Funeral Directors in compliance with the mandates of section 333.221.1, RSMo.

(1) Each member of the State Board of Embalmers and Funeral Directors shall receive up to the sum of fifty dollars ($50) as compensation for each day that member devotes to the affairs of the board.

(2) In addition to the compensation fixed in this rule, each member is entitled to reimbursement of his/her expenses necessarily incurred in the discharge of his/her official duties.

(3) No request for compensation provided in this rule shall be processed for payment unless sufficient funds are available for that purpose within the appropriations for this board.

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


NOTES

The remaining "shall" mirrors the statutory language.
20 CSR 2120-1.030 Election and Removal of Officers

PURPOSE: This rule sets out the term of office and outlines the duties of the officers of the board and establishes a procedure for removal of a board member from serving as an officer of the board.

(1) Prior to April 1 of each year at a regularly scheduled meeting, the board shall elect a chairman, vice-chairman and secretary to serve as its officers.

(2) Any board member duly nominated and receiving a majority vote of the members serving on the board shall will be considered elected as an officer.

(3) The terms of the officers elected shall commence on April 1 and expire on March 31 of the succeeding year.

(4) The officers elected by the board shall have the following duties:
   (A) Chairman—shall chair the board meetings; advise the board’s staff on the handling of complaints; call special board meetings; appoint committees of the board; may order, as s/he deems necessary, investigation of any complaint; may act on matters requiring immediate and necessary attention; make board member assignments; and any other duty which from time-to-time may be delegated by consent of the board;
   (B) Vice-chairman—shall serve as chairman in the absence of the chairman; review all licensees’ compliance with the terms of any disciplinary order or agreement; and any other duty which may from time-to-time be delegated by consent of the board; and
   (C) Secretary—shall perform any duties that may from time-to-time be delegated by consent of the board.

(5) Any officer may be removed from office at any time upon a vote of a majority of the members of the board.

(6) The board, in its discretion, may have a special election to fill any office which for any reason becomes vacant.

(7) Each board member, whether or not an officer of the board, may participate in any vote relating to the election or removal of officers.


NOTES

The remaining “shall” mirrors the statutory language.
20 CSR 2120-1.040 Definitions

PURPOSE: This rule defines terms used throughout the board’s regulations consistent with the practice act.

(1) Apprentice embalmer—an individual who is being trained as an embalmer under the immediate direction and personal supervision of a Missouri licensed embalmer for the “practice of embalming,” the work of preserving, disinfecting, and preparing by arterial embalming, or otherwise, of dead human bodies or the holding of oneself out as being engaged in such work and has met the requirements for registration pursuant to sections 333.041 and 333.042, RSMo, and 20 CSR 2120-2.010.

(2) Apprentice funeral director—an individual who is being trained as a funeral director in a Missouri licensed funeral establishment under the supervision of a Missouri licensed funeral director in the “practice of funeral directing,” the business of preparing, otherwise than by embalming, for the burial, disposal, or transportation out of this state of, and the directing and supervising of the burial or disposal of, dead human bodies or engaging in the general control, supervision, or management of the operations of a Missouri licensed funeral establishment and has met the requirements for registration pursuant to 20 CSR 2120-2.060.

(3) Board—Missouri State Board of Embalmers and Funeral Directors created by the provisions of Chapter 333, RSMo.

(4) Corporation—a business entity incorporated under the laws of Missouri or any other state with authority to do business in the state of Missouri.

(5) Cremation log—a written record or log kept in the cremation area available at all times in full view for a board inspector, which shall include the following:
   (A) The name of the deceased to be cremated;
   (B) The name of the Missouri licensed establishment where the body is cremated;
   (C) The date and time the body arrived at the crematory;
   (D) The date and time the cremation took place;
   (E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;
   (F) The supervising Missouri licensed funeral director’s license number or the supervising Missouri licensed embalmer’s license number; and
   (G) The name of the Missouri licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

(6) Disinterment—removal of dead human remains from the ground, grave, or tomb.

(7) Embalmer—an individual holding an embalmer’s license issued by the State Board of Embalmers and Funeral Directors.

(8) Embalmer examination—an examination consisting of the following:
   (A) National Board Funeral Service Arts Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board;
   (B) In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination;
(C) National Board Funeral Service Science Section developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; and
(D) Missouri Law Section.

(9) Executive director—executive secretary of the board.

(10) Function—the purpose for which a physical location may be used.

(11) Funeral ceremony—a religious service or other rite or memorial ceremony for a decedent.

(12) Funeral director—an individual holding a funeral director license issued by the State Board of Embalmers and Funeral Directors.

(13) Funeral director examination—an examination consisting of the following:
   (A) Missouri Law Examination; and
   (B) Missouri Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board; or
   (C) National Board Funeral Service Arts Examination developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

(14) Funeral director—in-charge—an individual licensed as a funeral director by the State Board of Embalmers and Funeral Directors responsible for the general management and supervision of a Missouri licensed funeral establishment in the state of Missouri. Each Missouri licensed funeral establishment shall have a Missouri licensed funeral director designated as the funeral director-in-charge.

(15) Funeral establishment—a building, place, or premises licensed by the Missouri State Board of Embalmers and Funeral Directors devoted to or used in the care and preparation for burial, cremation, or transportation of the human dead and includes every building, place, or premises maintained for that purpose or held out to the public by advertising or otherwise to be used for that purpose.

(16) Funeral service—any service performed in connection with the care of a dead human body from the time of death until final disposition including, but not limited to:
   (A) Removal;
   (B) Entering into contractual agreements for the provision of funeral services;
   (C) Arranging, planning, conducting, and/or supervising visitations and funeral ceremonies;
   (D) Interment;
   (E) Cremation;
   (F) Disinterment;
   (G) Burial; and
   (H) Entombment.

(17) Interment—burial in the ground or entombment of dead human remains.

(18) Limited license—allows a person to work only in a funeral establishment which is licensed for only cremation including transportation of dead human bodies to and from the funeral establishment.

(19) Preparation room—refers to the room in a Missouri licensed funeral establishment where dead human bodies are embalmed, bathed, and/or prepared for final disposition.

(20) Reciprocity examination—shall consist of the Missouri Law Examination.

(21) Register log—a written record or log kept in the preparation/embalming room of a Missouri licensed funeral establishment available at all times in full view for a board inspector, which shall include the following:
   (A) The name of the deceased;
   (B) The date and time the dead human body arrived at the funeral establishment;
   (C) The date and time the embalming took place, if applicable;
   (D) The name and signature of the Missouri licensed embalmer, if applicable;
   (E) The name and signature of the Missouri registered apprentice embalmer, if any;
(F) The Missouri licensed embalmer's license number, if applicable;
(G) The Missouri apprentice embalmer registration number, if any; and
(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location. 

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


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The remaining “shall”s are essential for the protection of the public.
20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship

PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, shall complete a practicum as required by the accredited institution of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.

(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee.

(4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

(5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.

(6) Upon successful completion of the practicum, the practicum student registration shall become null and void. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.

(7) After graduating from an accredited institution of mortuary science education, the applicant shall file, with the board, an official transcript of his/her embalming school grades showing s/he is a graduate of that school. In addition, the applicant shall ensure that his/her official copy of the national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.
Effective July 30, 2004, the Missouri State Board embalmers’ examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application, payment, scheduling, and administration for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another Missouri license within the jurisdiction of the board and the license is in active status. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(9) The embalming examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules, and regulations governing the care, custody, shelter, and disposition of dead human bodies and the transportation thereof.

(10) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(11) Those applicants achieving seventy-five percent (75%) on each of the three (3) sections of the embalming examination will be deemed to have passed the board’s embalming examination. Any applicant who scores less than seventy-five percent (75%) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant shall score at least seventy-five percent (75%) to pass.

(12) After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the embalming examination, s/he then may apply for registration as an apprentice embalmer. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination. This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

(13) Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s), location(s), and license number(s) of the licensed funeral establishment(s) where s/he is serving as an apprentice. If the apprentice embalmer begins work at any other licensed funeral establishment during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, within ten (10) business days after the change has been made.

(14) The period of apprenticeship under this rule shall be at least twelve (12) consecutive months. The apprentice embalmer shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer. During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.
Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.

An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of twenty-five (25) dead human bodies, shall be submitted to the board at the time of completion of the apprenticeship period and prior to the oral examination.

After successful completion of the embalmer’s examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination. To appear for the oral examination, the embalmer applicant shall:

(A) Submit an application on a form supplied by the board and pay the applicable fees to the board; and
(B) Successfully pass the oral examination administered by the board for licensure.

The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.

After satisfactory completion of these requirements, an embalmer’s license shall be issued to an apprentice embalmer upon payment of the applicable fee and subject to the provisions of section 333.330121, RSMo.

An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited institution of mortuary science. If the applicant fails to meet the requirements of the board within the required time period, a new application and applicable fees shall be filed with the board and the applicant shall be required to appear for the oral examination meet the requirements as a new applicant within five (5) years of the new date of application. No previous practicum, apprenticeship, application, or Missouri Law section will be considered for a new application. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Service Science section, or designee of the board will be accepted.

A Missouri licensed embalmer may engage in the practice of embalming in the state of Missouri only in Missouri licensed funeral establishments. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s), and license number(s) where the embalmer is performing embalming.

A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.
Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except, the Missouri licensed embalmer shall will be exempt from the requirement of a funeral director apprenticeship.

Should an individual desire to obtain a Missouri embalmer's license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination, and shall be required to complete a six (6) consecutive month period of apprenticeship during which time s/he shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer's license under this section. No previous apprenticeship, application, or examination will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Science section will be accepted.

After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant, an embalmer's license can be issued to an apprentice embalmer upon payment of the applicable fee and subject to the provisions of section 333.330, RSMo. shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application of a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.

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

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


NOTES
The remaining terms “shall” and “required” are essential for the protection of the public.
20 CSR 2120-2.020 Biennial License Renewal

PURPOSE: This rule outlines the requirements and procedures for the renewal of embalmer’s, funeral director’s and funeral establishment’s licenses.

(1) Each Missouri licensed embalmer or Missouri licensed funeral director shall notify the board within thirty (30) days of each address change of the Missouri licensed funeral establishment at which s/he is practicing and shall notify the board within thirty (30) days of any termination or creation of an employment relationship with a Missouri licensed funeral establishment. Each holder of a Missouri funeral establishment license shall notify the board at least sixty (60) days prior to any change of address of the Missouri licensed funeral establishment, sale of the Missouri licensed funeral establishment or termination of business of the Missouri licensed funeral establishment.

(2) A nonrenewable license, not valid for active practice in Missouri, will be issued at no charge to a currently licensed embalmer, funeral director, or both, upon presentation of a signed notarized statement from the licensee attesting to the fact that the licensee is disabled and is no longer active in the practice of embalming, funeral directing, or both. If the licensee desires at some future date to return to active practice in Missouri, the board shall issue a valid renewal license upon payment of the current renewal fee and completion of the applicable renewal application form.

(3) The holders of expired Missouri embalmer’s and funeral director’s licenses which are not renewed will be notified that their licenses have expired. The holder of an expired license shall be issued a new license by the board within two (2) years of the renewal date after the proper reactivation fees have been paid. Any Missouri embalmer’s license and Missouri funeral director’s license not renewed within two (2) years shall will be void.

(4) The licensee’s failure to receive the renewal notice does not relieve the licensee of the duty to pay the renewal fee and renew his/her license.

(5) The biennial license renewal date for Missouri licensed embalmers and Missouri licensed funeral directors shall be designated as June 1. The biennial license renewal date for Missouri licensed funeral establishments shall be designated as January 1.

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


The remaining terms “shall” are essential for the protection of the public.
20 CSR 2120-2.022 Retired License

PURPOSE: This rule clarifies the requirements to retire from the practice of funeral directing and/or embalming.

(1) Any person licensed to practice as a funeral director and/or embalmer in Missouri who is over sixty-five (65) years of age and who retires from such practice, shall file with the board an affidavit, on a form to be furnished by the board, which states the date on which s/he retired from such practice, that s/he will not practice such profession and such other facts as tend to verify the retirement as the board may deem necessary; but if s/he thereafter wishes to reengage in the practice, s/he shall renew his/her registration with the board as provided in section 333.081.1, RSMo.

(2) For purposes of this section, a retired Missouri licensed funeral director and/or Missouri licensed embalmer is one who is neither engaged in the active practice of funeral directing/embalming nor holds him/herself out as an actively practicing funeral director/embalmer and has executed and filed with the board a retirement affidavit. A retired Missouri licensed funeral director/embalmer may keep his/her wall-hanging certificate after execution of a retirement affidavit but shall surrender, upon retirement, all other indicia of licensure.

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


NOTE

The remaining terms “shall” are essential for the protection of the public
20 CSR 2120-2.030 Registration of Licensees with Local Registrars of Vital Statistics

PURPOSE: This rule outlines the procedure for registering renewal licenses with local registrars.

(1) Pursuant to section 333.091, RSMo every holder of a Missouri embalmer's or funeral director's license, upon receiving his/her initial or renewal license(s), shall register his/her signature, name, address and license number with the local registrar of vital statistics for the registration district in which the licensee practices.

(2) Whenever a licensee changes his/her place of employment from the jurisdiction of one (1) registration district to another registration district, within ten (10) days after that change, s/he shall register with the local registrar to whose jurisdiction s/he has moved.

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.

(4) Each licensed embalmer who embalms a dead human body shall state on the death certificate that s/he embalmed the dead human body described on the death certificate. Each statement must be signed by the licensed embalmer. If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

(5) Each signature of a licensed embalmer on a death certificate must correspond with the same licensee’s signature as registered with the local registrar of vital statistics.

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


Notes

The remaining “shall” and “required” are essential for the protection of the public
20 CSR 2120-2.040 Licensure by Reciprocity

PURPOSE: This rule outlines procedures for obtaining an embalmer or funeral director license by reciprocity.

(1) Applications for a Missouri embalmer’s or funeral director’s license by reciprocity shall be made on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

(2) Any person holding a valid unrevoked and unexpired license to practice embalming or funeral directing in another state or territory is eligible to obtain licensure by reciprocity by meeting the following requirements of the board:

(A) Evidence satisfactory to the board that the reciprocity applicant holds a valid, unrevoked, and unexpired license as an embalmer or funeral director in another state having substantially similar requirements to the requirements for licensure as either an embalmer or funeral director in this state including a copy of his/her original license issued by the other state;

(B) Proof of his/her educational and professional qualifications, which shall be substantially equivalent to the requirements existing in Missouri at the time s/he was originally licensed;

(C) A certificate of state endorsement from the examining board of the state or territory in which the applicant holds his/her license showing the grade rating upon which his/her license was granted, a statement whether the reciprocity applicant has ever been subject to discipline or if there are any complaints pending against the reciprocity applicant and a recommendation for licensure in Missouri;

(D) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination and the National Board Funeral Service Science Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for an embalmer license or an embalmer and funeral director license; or

(E) Evidence sufficient to the board that the applicant has achieved a score of seventy-five percent (75%) or better on the National Board Funeral Service Arts Examination provided by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, if applying for only a funeral director license; and

(F) The reciprocity applicant will be required to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board’s receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the reciprocity examination is required, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status;

(G) A completed application for licensure for reciprocity provided by the board; and

(H) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as required by the board.

(3) If the reciprocity applicant holds a license as an embalmer or funeral director in another state or territory with requirements less than those of this state, they may seek licensure in this state by meeting the following requirements of the board:

(A) An official certification from another state or territory which verifies that the licensee holds a valid, unrevoked, and unexpired funeral director or embalmer license in the other state or territory;

(B) A copy of his/her original funeral director or embalmer license from the other state or territory in which the applicant is licensed;

(C) Proof of his/her educational and professional qualifications;
(D) The reciprocity applicant will be **required** to successfully complete the reciprocity examination with a score of seventy-five percent (75%) or better within twenty-four (24) months after the board’s receipt of the reciprocity application. If an applicant by reciprocity has received either an embalmer or funeral director license from the board for which the reciprocity examination is **required**, that applicant will be exempt from taking the reciprocity examination for the second license if the original Missouri license remains in active status;

(E) A completed application for licensure for reciprocity provided by the board; and

(F) Payment of applicable fees including the fee charged by the Missouri State Highway Patrol for a criminal history background check, as **required** by the board.

(4) Licensure by reciprocity may be given only for like license(s). An embalmer licensed in another state may obtain an embalmer license by reciprocity, but not a funeral director license unless that person is licensed as a funeral director in another state. A funeral director licensed in another state may obtain a funeral director license by reciprocity, but not an embalmer license unless that person is licensed as an embalmer in another state.

(5) Applications for reciprocity licensure **shall** be completed and received by the board at least thirty (30) days prior to the date the candidate plans to sit for the examination and **shall** be accompanied by the applicable fee. Applications are deemed complete upon subcommission of any and all requisite forms **required** by the board, payment of requisite fees, and submission of all materials **required** by this rule or supplemental materials requested by the board. Application forms can be obtained from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

(6) The board **shall** determine the sufficiency of the materials provided in the application for reciprocity and **shall** have the authority to make the final determination as to the standards and qualifications of the various states from which the applicants may be accepted by reciprocity and may reject any applicant on any lawfully permitted grounds.

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

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


**NOTES**

The remaining terms “shall” and “required” are essential for the protection of the public.
20 CSR 2120-2.050 Miscellaneous Rules

PURPOSE: This rule incorporates miscellaneous rules pertaining to embalmer’s and funeral director’s licenses.

(1) All licensees may be represented before the board by an attorney. If the licensee desires to be represented by an attorney, the attorney shall be licensed to practice law in Missouri or meet the requirements of the Supreme Court with respect to nonresident attorneys.

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

(3) All documents filed with the board shall become a part of its permanent files.


20 CSR 2120-2.060 Funeral Directing

PURPOSE: This rule outlines the provisions for the practice of funeral directing.

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

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application fee directly to the board. If the applicant has successfully completed the National Board Funeral Service Arts examination, no Missouri Funeral Service Arts examination is required. Application forms can be obtained from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

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

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

(5) The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. Accordingly, effective February 28, 2010, an apprentice shall not be allowed to register with the board for more than two (2) apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.
(6) Upon registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.

(7) The funeral director apprentice registration authorizes the registrant to engage in the practice of funeral directing only during the period of apprenticeship. Once the apprenticeship is successfully completed as defined in this rule, the funeral director apprentice registration shall become null and void. Any Missouri licensed funeral director who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of funeral directing before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.330424.2, RSMo.

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

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

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

(11) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each section. If the applicant fails a section of the examination, the applicant shall be permitted to retake that section of the examination.

(12) All notifications for the funeral director’s examination shall be in writing and received by the board at least forty-five (45) days prior to the date the candidate plans to sit for the examination.

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

(14) An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board if the current license remains in active status.
Any funeral director that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

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

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

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

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

Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

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

A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following at-need arrangements with the person having the right to control the incidents of disposition:

(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;

(B) Embalming, cremation, care, or preparation;

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

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

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

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

(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited funeral director shall only engage in the activities of funeral directing authorized for a Function B funeral establishment.

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

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

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

(E) If a limited licensee desires to obtain a full funeral director's license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by pursuant to section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by pursuant to these regulations. The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.

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

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

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

A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

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

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

(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.
(30) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.


Note

The remaining terms “shall” and “required” are essential for the protection of the public
20 CSR 2120-2.070 Funeral Establishments

PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.

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

(2) There shall be the following license classifications:
   (A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a Function A establishment is prohibited from the care and preparation of dead human bodies other than by embalming, and shall also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies, or selling of funeral merchandise.
   (B) Function B establishments shall have authority to cremate dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains.
   (C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise.
   (D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and shall be operated under the supervision and ownership of a Function C establishment.

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

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.

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

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

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

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

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

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

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be is in violation of this rule.
(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

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

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

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

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

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

(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Authorization to embalm shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document:
  1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;
  2. The relationship of that person to the deceased;
  3. The name of the person who is verbally communicating authorization to embalm and that person’s relationship to the person who is actually authorizing embalming;
  4. The time and date authorization to embalm was given; and
  5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.
(23) Each Function C funeral establishment shall maintain on the Missouri premises the following documents:
   (A) General price list;
   (B) Preneed contracts which have been cancelled or fulfilled;
   (C) Purchase agreements; and
   (D) Authorizations to embalm or cremate.

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

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

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

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

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

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

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

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

(27) Each funeral establishment shall maintain a register log, as defined by 20 CSR 2120-1.040(21). The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room, the log shall be kept on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall contain the information required by 20 CSR 2120-1.040(21).
(28) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director's presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(29) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

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

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


NOTES

The remaining terms “shall”, “required” and “may not” are essential to for the protection of the public.
20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

PURPOSE: This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

(1) Definitions.
   (A) Cremated remains—the bone fragments which remain after the cremation process is completed.
   (B) Cremation—the technical heating process which reduces remains to bone fragments through heat and evaporation; a final disposition of dead human remains.
   (C) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.
   (D) Cremation chamber—the total functioning mechanical unit for the actual cremation process.
   (E) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.
   (F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.
   (G) Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.
   (H) Short-term storage—storage for a period of thirty (30) days or fewer.
   (I) Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

(2) No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.

(3) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which include:

   (A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and

   (B) Information regarding the cremation which includes:
       1. The full name of the deceased;
       2. The last place of residence of the deceased;
       3. The place of death of the deceased;
       4. The place of birth of the deceased;
       5. The date and place of the funeral;
       6. The name of the Missouri licensed funeral director, other than a limited license funeral director, with whom the arrangements were made;
       7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
       8. The date and time when cremation was begun;
       9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and
       10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

(4) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:

   (A) The name of the deceased to be cremated;
   (B) The name of the Missouri licensed establishment where the body is cremated;
   (C) The date and time the body arrived at the crematory,
(D) The date and time the cremation took place;
(E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;
(F) The supervising Missouri licensed funeral director’s license number or the supervising Missouri licensed embalmer’s license number; and
(G) The name of the Missouri licensed funeral establishment or other that was in charge of making the arrangements if from a different location.

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

(6) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined pursuant to section 194.119.2, RSMo.

(7) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.

(8) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and protect the surrounding structure. A Function B establishment shall is not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, city, county, and municipal statutes, rules and regulations.

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

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

(9) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.
(10) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law.

(11) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by the funeral establishment.

(12) Each body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease.

(13) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

(14) No body shall be cremated with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(15) No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

(16) Except for metal containers or caskets, each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated. If a metal container or casket is used, the purchaser shall be informed by the funeral director at the time the arrangements are made of the disposition of the metal container or casket after cremation, if the container or casket is not to be placed in the retort. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.

(17) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(18) Following the completion of the cremation process, all residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(19) If the cremated remains do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

(20) If the cremated remains will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

(21) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

(22) If the cremated remains are to be shipped, the cremation box shall be packed securely in a corrugated cardboard box which is securely closed with tape acceptable to the shipper.
(23) Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

(24) Each urn into which cremated remains are placed shall be made of a durable material which shall enclose the cremated remains entirely.

(25) Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed, or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation.

(26) Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

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


NOTES
The remaining terms “shall” and “required” are essential to for the protection of the public.
20 CSR 2120-2.080 Written Statement of Charges

PURPOSE: This rule establishes a minimum disclosure requirement to provide better safeguards to Missouri citizens purchasing funeral services and merchandise and in particular, purchases of caskets and outer burial containers by requiring specific identifying information to be included on the written statement of charges.

(1) Every Missouri licensed funeral director responsible for providing funeral services or arranging for the delivery of any funeral merchandise, shall give or cause to be given to the person(s) making such arrangements a written statement of charges for the funeral merchandise and funeral services selected.

(2) At the time of need, a written statement of charges shall be completed and given to the person making the at-need arrangements. The written statement of charges shall be completed prior to the rendering of the funeral services or providing merchandise; and At a minimum, the written statement of charges shall contain the following:
   (A) The name and signature of the Missouri licensed funeral director responsible for making the arrangements or providing the funeral merchandise;
   (B) The name and address of the Missouri licensed funeral establishment in charge of providing the merchandise or funeral services;
   (C) The name, address and signature of the person making the at-need arrangements;
   (D) The date of the signatures;
   (E) The name of the deceased;
   (F) The date of death;
   (G) The price of the service(s) selected and the price of the supplemental (additional) items;
   (H) The price of the merchandise selected including a detailed description of the casket and outer burial container;
   (I) The amount and description of all cash advance items; and
   (J) The method of payment.

(3) A preneed contact shall not be substituted for the written statement of charges required by this rule.

(4) Violations of this rule will be deemed misconduct in the practice of funeral directing.

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


20 CSR 2120-2.090 Preparation Rooms/Embalming Room

PURPOSE: This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.

(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.

(3) Floors, Walls and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. Floor drains shall be provided where the floor is to be subjected to cleaning by flooding. All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.

(4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services rules and regulations, Missouri Department of Natural Resources rules and regulations, and all other applicable county, city, municipal and state rules and regulations relating to plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.

(5) Sewage and Liquid Waste Disposal.
   (A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Department of Health and Senior Services.
   (B) The following aspirators are approved for preparation rooms:
      1. Electric aspirators;
      2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker approved by the American Society of Sanitary Engineering or by the Uniform Plumbing Code and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table; and
      3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the Uniform Plumbing Code, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the Uniform Plumbing Code.

(6) Solid Waste Disposal.
   (A) Refuse, bandages, cotton and other solid waste materials shall be kept in leakproof, nonabsorbent containers which shall and be covered with tight-fitting lids prior to disposal.
   (B) All waste materials, refuse, and used bandage and cotton shall be destroyed by reducing to ashes through incineration or shall be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.

(7) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(8) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.
(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities shall exist for the proper disinfection of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments shall be maintained. At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and

(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

(10) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.

(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction shall provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.

(11) A separate wash sink (separate from slop drain sink) shall be present or in close proximity to the preparation room for a personal hand wash facility for Missouri licensed embalmers and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10’) from the door of the preparation room.

(12) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

(13) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

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


NOTES

The remaining terms “shall” and “required” are essential for the protection of the public.
20 CSR 2120-2.100 Fees

PURPOSE: This rule establishes and fixes the various fees and charges authorized by Chapter 333, RSMo.

(1) The following fees hereby are established by the State Board of Embalmers and Funeral Directors:

(A) Embalmer Practicum Student Registration Fee $25
(B) Embalmer Application Fee—Apprentice, Reciprocity $150
(C) Embalmer Biennial Renewal Fee $150
   1. Effective March 1, 2018 through June 20, 2018 $5
(D) Funeral Director Application Fee—Apprentice, Education, Reciprocity, Limited $150
(E) Funeral Director Biennial Renewal Fee $150
   1. Effective March 1, 2018 through June 20, 2018 $5
(F) Funeral Director, Embalmer, Establishment Reactivation Fee (day 1 to day 365 after date license lapsed) $100
(G) Funeral Director, Embalmer, Establishment Reactivation Fee (day 366 to day 730 after date license lapsed) $200
(H) Establishment Application Fee $250
(I) Amended Establishment Application Fee $25
(J) Establishment Biennial Renewal Fee $200
   1. Effective October 1, 2017 through January 31, 2018 $5
(K) Reciprocity Certification Fee $10
(L) Duplicate Wallhanging Fee $10
(M) Collection Fee for Bad Checks $25
(N) Law Book Requests $5
(O) Background Check Fee
   (amount determined by the Missouri State Highway Patrol)
(P) Provider License Application Fee (if no Funeral Establishment license) $200
(Q) Provider License Application Fee (if also Funeral Establishment license) $100
(R) Provider Annual Renewal Fee $0
(S) Provider Delinquent Renewal Fee—
   (day 1 to day 365 after date license lapsed) $100
(T) Provider Delinquent Renewal Fee—
   (day 366 to day 730 after date license lapsed) $200
(U) Seller License Application Fee $200
(V) Seller Annual Renewal Fee $150
   1. Effective August 1, 2017 through November 30, 2017 $5
(W) Seller Delinquent Renewal Fee—
   (day 1 to day 365 after date license lapsed) $200
(X) Seller Delinquent Renewal Fee—
   (day 366 to day 730 after date license lapsed) $400
(Y) Preneed Agent Registration Fee $40
(Z) Preneed Agent Annual Registration Renewal Fee $40
   1. Effective September 1, 2017 through December 31, 2017 $5
(AA) Preneed Agent Delinquent Renewal Fee—
   (day 1 to day 365 after date license lapsed) $50
(BB) Preneed Agent Delinquent Renewal Fee—
   (day 366 to day 730 after date license lapsed) $100
(CC) Seller per Contract Annual Reporting Fee (for contracts executed on or after September 1, 2015) $25
(DD) Amended Provider Application Fee $ 25
(EE) Amended Seller Application Fee $ 25

(2) All fees are nonrefundable.

(3) The provisions of this rule are severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction, the remaining provisions of this rule shall remain in full force, unless otherwise determined by a court of competent jurisdiction.


20 CSR 2120-2.110 Public Complaint Handling and Disposition Procedure

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of public complaints by the board, pursuant to the mandate of section 4.16(6) of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo.

(1) The State Board of Embalmers and Funeral Directors shall receive and process each complaint made against any licensee, permit holder, registrant of the board or unlicensed individual or entity, which complaint alleges certain acts or practices which may constitute one (1) or more violations of the provisions of Chapter 333, RSMo. Any member of the public or the profession, or any federal, state or local officials may make and file a complaint with the board. Complaints shall be received from sources outside Missouri and processed in the same manner as those originating within Missouri. No member of the State Board of Embalmers and Funeral Directors shall file a complaint with this board while s/he holds that office, unless that member excuses him/herself from further board deliberations or activity concerning the matters alleged within that complaint. The executive director or any staff member of the board may file a complaint pursuant to this rule in the same manner as any member of the public.

(2) Complaints should be mailed or delivered to the following address: Executive Director, State Board of Embalmers and Funeral Directors, 3605 Missouri Boulevard, PO Box 423, Jefferson City, MO 65102-0423. However, actual receipt of the complaint by the board at its administrative offices in any manner shall be sufficient. Complaint may be made based upon personal knowledge, or upon information and belief, reciting information received from other sources.

(3) All complaints shall be made in writing and shall fully identify the complainant by name and address. Complaints shall be made on forms provided by the board and available upon request. Oral or telephone communications will not be considered or processed as complaints, but the person making these communications will be provided with a complaint form and requested to complete it and return it to the board in written form. Any member of the administrative staff of the board or any member of the board may make and file a complaint based upon information and belief, in reliance upon oral, telephone or written communications received by the board, unless those communications are believed by that staff member to be false.

(4) Each complaint received under this rule shall be logged in a book and/or database maintained by the board for that purpose. Complaints shall be logged in consecutive order as received. The logbook and/or database shall contain a record of each complainant’s name and address; the name and address of the subject(s) of the complaint; the date each complaint is received by the board; a brief statement of the acts complained of, including the name of any person injured or victimized by the alleged acts or practices; a notation whether the complaint resulted in its dismissal by the board or informal charges being filed with the Administrative Hearing Commission; and the ultimate disposition of the complaint. This logbook and/or database shall be a closed record of the board.

(5) Each complaint received under this rule shall be acknowledged in writing. The acknowledgment shall and state that the complaint is being referred to the board for consideration at its next regularly scheduled meeting. The complainant shall be informed as to whether the complaint is being investigated, and later, as to whether the complaint has been dismissed by the board, or is being referred to legal counsel for filing with the Administrative Hearing Commission. The complainant shall be notified of the ultimate disposition of the complaint, excluding judicial appeals and shall be provided with copies of the decisions (if any) of the Administrative Hearing Commission and the board at that time. Provided, that the provisions of this section shall not apply to complaints filed by staff members of the board based on information and belief, acting in reliance on third-party information received by the board.
(6) The chairman of the board, from time-to-time and as s/he deems necessary, may instruct the board inspector/investigator to investigate any complaint before the complaint has been considered at a regularly scheduled board meeting. The inspector/investigator shall provide a report of any actions taken to the board at its next regularly scheduled meeting.

(7) Both the complaint and any information obtained as a result of the investigation shall be considered a closed record and shall not be available for inspection by the general public. However, a copy of the complaint and any attachments will be provided to any licensee who is the subject of that complaint, or his/her legal counsel, upon written request to the board.

(8) This rule shall not be deemed to limit the board’s authority to file a complaint with the Administrative Hearing Commission charging a licensee of the board with any actionable conduct or violation, whether or not the complaint exceeds the scope of the acts charged in a preliminary public complaint filed with the board, and whether or not any public complaint has been filed with the board.

(9) The board interprets this rule, which is required by law, to exist for the benefit of those members of the public who submit complaints to the board and for those persons or entities within the legislative and executive branches of government having supervisory or other responsibilities or control over the professional licensing boards. This rule is not deemed to protect, or inure to the benefit of, those licensees or other persons against whom the board has instituted or may institute administrative or judicial proceeding concerning possible violations of the provisions of Chapter 333, RSMo.


20 CSR 2120-2.115 Procedures for Handling Complaints Against Board Members

PURPOSE: This rule establishes a procedure for the receipt, handling and disposition of complaints filed against members of the board.

(1) Complaints against members of the board will be handled in the same manner as complaints against other licensees with minor variations specifically described in this rule.

(2) When a complaint against a board member is received by the staff, the staff shall take steps to make sure that the complaint is on the proper form(s) (that is, the Uniform Complaint Form). Once the complaint is received in the proper form, the complaint will be mailed to all members of the board except the member who is the subject of the complaint. The member who is the subject of the complaint will automatically receive a summary of the complaint and will receive all agendas or other notices pertaining to when and where the complaint will be discussed. If the member who is the subject of the complaint requests additional information in writing, that information will be provided by the staff in consultation with the chairman (or vice-chairman, if the chairman is the subject of the complaint). In no event will the member who is the subject of the complaint be given information by the board or its staff which would reveal the name of the complainant, unless the member would have access if s/he were not a member of the board. If the board member learns the complainant’s identity from the complainant, other board members and the staff subsequently may include the complainant’s name in communication with the board member.

(3) At the meeting when the complaint is discussed, the board member who is the subject of the complaint shall not be present during discussion of the complaint unless by vote or consensus the remaining board members request the presence of the board member in question. The board member shall not participate in discussion of the complaint as a member of the board but shall participate in the same manner as any other licensee who is invited to appear before the board to discuss a complaint. The board member may be asked to leave the room at any time during the discussion. The board member shall leave the room prior to any vote which will determine the manner in which the complaint will be handled.

(4) After the remaining board members have completed voting on all action to be taken as a result of the complaint, the board member may return to the room. At that time, the board chairman (or vice-chairman, if the chairman is the subject of the complaint) will inform the board member of the action which the board has decided to take.

(5) If the board decides to have the complaint investigated, a copy of the investigative report will be mailed to all board members except the board member who is the subject of the complaint. The board member who is the subject of the complaint will be sent a copy of any notice or agenda which indicates that the investigative report will be discussed. The meeting at which the investigative report is discussed will follow the same procedures outlined in section (4) for the meeting at which the complaint is discussed.

(6) If the board chooses to take no further action as a result of the complaint or the investigative report, the board member will be informed of this decision. The board member will not subsequently have access to the investigative report or the complaint unless the member would have that access if s/he were not a member of the board.
(7) If the board chooses to refer the case to the attorney general’s office, the board member will be informed of that fact. The board member will not be allowed access to the complaint or investigative report by virtue of his/her status as a board member. If the attorney assigned to the case chooses to release these documents to the board member or if the attorney is required for legal reasons to release these documents to the board member, the board member will be permitted access to the documents released by the attorney.

(8) The board member will not be present during any discussion of the case once the board has voted to refer the case to the attorney general’s office. The exception to this rule will be only for prearranged formal meetings to discuss settlement, if the attorneys for both parties agree. The other board members will not discuss the case with the board member who is the subject of the case except at the formal meeting.

(9) The board member has the right to be represented by counsel at all formal or informal proceedings. Admissions made by the board member at or outside a board meeting may be used against the board member at hearing.

(10) The board member shall not have access to that portion of the minutes of any meeting which reflects discussion, motions or votes related to the complaint or case against the board member. These minutes shall be kept separately as special closed minutes and shall not be shared with the board member by the other board members or the staff unless the board member would be entitled to access to the minutes if s/he were not a board member.

(11) The provisions of sections (1)–(10) of this rule shall apply to any complaint against a Missouri licensed funeral establishment at which a member of the board is employed or with which a member of the board is associated.

(12) The provisions of sections (1)–(10) of this rule shall apply to any complaint against any preneed registrant by which a member of the board is employed or with which a member of the board is associated, including, but not limited to, a complaint against a preneed seller who sells for a Missouri licensed funeral establishment with which a member of the board is associated. A board member will be considered to be employed by or associated with a preneed registrant if the board member receives a salary or wages from the preneed registrant or if a board member has an ownership interest in a preneed registrant. However, these procedures shall not apply to a board member who only receives commissions from the preneed registrant. Each member of the board shall keep the board’s executive director notified of the preneed registrants by which the board member is employed and with which the board member is associated.

(13) The remaining members of the board may vote to exclude a member from participating in any matter based upon a conflict of interest. The vote must be a majority vote of all of the members present and voting except the member who is the subject of the vote. Participation shall include, but not be limited to, receipt of materials, presence during discussion and voting.


NOTES

The remaining terms “shall” and “required” are essential for the protection of the public.
20 CSR 2120-2.120 Public Records

PURPOSE: This rule establishes standards of compliance with Chapter 610, RSMo, as it relates to public records of the State Board of Embalmers and Funeral Directors.

(1) All public records of the State Board of Embalmers and Funeral Directors shall be open for inspection and copying by the general public at the board’s office during normal business hours, holidays excepted, except for those records closed pursuant to section 610.021, RSMo. All public meetings of the State Board of Embalmers and Funeral Directors, not closed pursuant to the provisions of section 610.021, RSMo, will be open to the public.

(2) The State Board of Embalmers and Funeral Directors establishes the executive director of the board as the custodian of its records as required by section 610.023, RSMo. The executive director is responsible for maintaining the board’s records and for responding to requests for access to public records and may appoint deputy custodians as necessary for the efficient operation of the board.

(3) When the custodian believes that requested access is not required, the custodian shall inform the requesting party that compliance cannot be made, specifying what sections of Chapter 610, RSMo, require that the record remain closed. Correspondence or documentation of the denial shall be copied to the board’s general counsel. The custodian also shall inform the requesting party that s/he may appeal directly to the board for access to the records requested. The appeal and all pertinent information shall be placed on the agenda for the board’s next regularly scheduled meeting. If the board reverses the decision of the custodian, the board shall direct the custodian to advise the requesting party and supply access to the information during regular business hours at the requesting party’s convenience.

(4) The custodian shall maintain a file that will contain copies of all written requests for access to records and responses to these requests. The requests shall be maintained on file with the board for a period of one (1) year and will be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

(5) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost of inspecting and copying the records. The fee charged by the board shall be as follows:

   (A) A fee for copying public records shall not exceed the actual cost of the document search and duplication; and

   (B) The board may require payment for these fees prior to making the copies.


NOTES

The remaining terms “shall” are essential for the protection of the public.
**20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193**

**PURPOSE:** This rule explains that the use of the term “final disposition” in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with the definition of the term in Chapter 193, RSMo.

(1) For purposes of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with its use in Chapter 193, RSMo.


**Notes**

The remaining terms “shall” are essential for the protection of the public.
20 CSR 2120-2.140 Financial Welfare Cause for Injunction

PURPOSE: This rule states that serious danger to an individual’s financial welfare is cause for the State Board of Embalmers and Funeral Directors to seek an injunction pursuant to section 333.335.1(2), RSMo.

(1) For purposes of section 333.335, RSMo, the Missouri State Board of Embalmers and Funeral Directors shall be entitled to seek injunctive relief against any person from engaging in any business or practice authorized by a registration or authority, permit, or license issued under this chapter in a manner that presents a substantial probability of serious danger to the health, safety, or welfare of any resident of this state or client or customer of the licensee or registrant.

(2) For purposes of section 333.335, RSMo, serious danger to the welfare of any resident or client or customer shall include, but is not limited to, the financial welfare of the resident, client, or customer.


NOTES

The remaining terms “shall” are essential for the protection of the public
20 CSR 2120-2.150 Payment Not Determining Factor of Practice of Funeral Directing

PURPOSE: This rule explains that the receipt of payment for providing funeral services is not the determining factor in identifying the practice of funeral directing.

(1) In determining whether a person, pursuant to section 333.011(6), RSMo, is engaging in the practice of funeral directing pursuant to section 333.011(8), RSMo, the board shall consider all activities listed in section 333.011(8), RSMo.

(2) Receipt of payment by any person for any or all services provided pursuant to this chapter or Chapter 436, RSMo, shall not be the determining factor in determining whether the person is engaging in the practice of funeral directing.


NOTES

The remaining terms “shall” are essential for the protection of the public.
20 CSR 2120-3.010 Preneed Seller Registration

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed sellers. Under section 333.111.1, RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. ... "for the transaction of its business..." This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed sellers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed sellers must be made on the forms provided by the board and must be accompanied by the applicable preneed seller registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed sellers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered seller registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept seller registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the registration will be cancelled.

(5) Each person seeking registration as a preneed seller will be required to submit a partial annual report at the time of registration, containing—1) the name and address of the financial institution in Missouri in which it will maintain the trust accounts required under Chapter 436, RSMo and the account numbers of those trust accounts, 2) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of the trust account designated by depository and account number and 3) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of its books and records relating to the sale of preneed contracts and name and address of the person designated by the seller as custodian of those books and records.

(6) The board will acknowledge receipt of each application for registration as a preneed seller if the application is completed properly and is accompanied by the preneed registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed contract sellers will be provided to any person upon request.


NOTES
The remaining terms "required" are essential for the protection of the public.
20 CSR 2120-3.020 Preneed Provider Registration

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed providers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . “for the transaction of its business. . .” This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed providers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable preneed provider registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed providers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered provider registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept provider registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the provider registration will be cancelled.

(5) Each establishment which is licensed separately by the state board as a funeral establishment must register separately as a preneed provider, if the establishment will perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract. Nothing in this rule will require registration of funeral establishments as preneed providers if the establishment will not perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract.

(6) The board will acknowledge receipt of each application for registration as a preneed provider, if the application is completed properly and is accompanied by the preneed provider registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed providers will be provided to any person upon request.


NOTES

The remaining terms “must” are essential for the protection of the public
20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to accept notification of intent to sell assets or cease doing business from persons registered as preneed sellers or preneed providers, or both. Under section 333.111.1, RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . “for the transaction of its business. . . ” This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in accepting notifications of intent to sell assets or cease doing business from registered preneed sellers or providers, or both.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Notification of intent to sell assets or cease doing business must are to be made on the forms provided by the board.

(3) As part of the notification, each registered seller must inform the board of the actions it has taken or will take to ensure that the trust assets of the seller will be set aside and used to serve outstanding preneed contracts sold by the seller and each registered provider must inform the board of the actions it has taken or will take to ensure that the provider’s obligations under preneed contracts will be satisfied.

(4) In its discretion, the board may take reasonable and necessary actions to ensure that the provider’s obligations under preneed contracts will be satisfied or that the trust assets of the seller will be set aside and used to service outstanding preneed contracts sold by the seller.

(5) Failure of the board to take action regarding any sale or termination of business within thirty (30) days of receipt of notification for providers and within sixty (60) days of receipt of notification for sellers will constitute a waiver of the board’s authority under Chapter 436, RSMo.

(6) Forms for submitting notifications of intent to sell assets or cease doing business will be provided upon request.


NOTES

The remaining terms “must” are essential for the protection of the public
PURPOSE: This rule prescribes the board’s process for the filing of annual reports under the revised sections of Chapters 333 and 436, RSMo.

(1) For sellers:
   (A) For the annual report due on October 31, 2009, sellers registered with the board prior to August 28, 2009, in lieu of filing the annual report required by section 436.460, RSMo, may file an annual report, on the form provided by the board, containing all the information required by section 436.021.2, RSMo 2000. This report shall report all preneed contracts executed since the reporting period the seller reported in its report due on October 31, 2008, through August 27, 2009. This annual report shall be accompanied by a fee of two dollars ($2) per preneed contract sold for the reporting period; and
   (B) For the annual report due on October 31, 2010, sellers shall report all contracts executed from August 28, 2009, through August 31, 2010. Thereafter, the annual report shall report all contracts sold between September 1 of the year preceding the annual report through August 31 of the reporting year. Each annual report filed for reporting years ending October 31, 2010, and thereafter shall also be accompanied by the annual fee as established in 20 CSR 2120-2.100.

(2) For providers:
   (A) For the annual report due as set out below, providers shall file an annual report as provided by section 333.315.3(4), RSMo, covering the reporting period as set out below:
      1. For report due October 31, 2009, the reporting period shall be from the date of the provider’s last annual report though August 27, 2009. No annual fee shall be required for this reporting period;
      2. For report due October 31, 2010, the reporting period shall be August 28, 2009, through August 31, 2010, and accompanied by the renewal fee in 20 CSR 2120-2.100; and
      3. For reports due successive years the annual reporting period shall be September 1 through August 31 and shall be accompanied by the renewal fee established in 20 CSR 2120-2.100.


NOTES

The remaining terms “shall” are essential for the protection of the public.
20 CSR 2120-3.115 Contact Information

PURPOSE: This rule details the requirements for preneed providers, sellers, and agents for providing the board with current contact information.

(1) Preneed providers, sellers, and agents shall keep the board notified of their current address, telephone number, facsimile number, and email address, as applicable, at all times.

(2) Preneed providers, sellers, and agents shall notify the board within thirty (30) days of any such change by submitting written notice with the new information. The written notice shall comply with the board’s rules regarding written notice.


NOTES

The remaining terms “shall” are essential for the protection of the public
20 CSR 2120-3.120 Display of License

PURPOSE: This rule states that preneed sellers, providers, and preneed agents must prominently display their license or registration to practice issued by the Missouri State Board of Embalmers and Funeral Directors.

(1) All licenses or registrations, and any and all duplicate copies thereof, issued by the Missouri State Board of Embalmers and Funeral Directors shall be prominently displayed at all times in a conspicuous location or manner easily accessible to the public for each office or place of business of the licensee or registrant.

(2) All licenses or registrations shall be available at all times for inspection by any duly authorized agent of the Missouri State Board of Embalmers and Funeral Directors.

(3) The Missouri State Board of Embalmers and Funeral Directors may cause a complaint to be filed with the Administrative Hearing Commission pursuant to section 333.330, RSMo, for failure of a licensee or registrant to display his or her license or registration as required by section 333.091, RSMo, and this regulation.


NOTES

The remaining terms “shall” and “must” are essential for the protection of the public
20 CSR 2120-3.125 Corporate Ownership of a Licensee

PURPOSE: This rule prescribes the requirements regarding corporation applications for a preneed provider or seller’s license.

(1) A corporate applicant for either a seller or provider license shall certify to the board that each of its officers, directors, managers, and controlling shareholders would be eligible for licensure under section 333.330, RSMo, if he or she applied for licensure as an individual.

(2) In any proceeding, the applicant shall have the burden to demonstrate to the board that its officers, directors, managers, and controlling shareholders would be eligible for licensure under section 333.330, RSMo.


NOTES

The remaining terms “shall” are essential for the protection of the public
20 CSR 2120-3.200 Seller Obligations

PURPOSE: This rule clarifies the duties of the seller of a preneed contract.

(1) Except as otherwise provided in sections 436.400 to 436.520, RSMo, and any rules validly promulgated pursuant to those sections—

(A) The seller shall be obligated to collect and properly deposit and disburse all payments made by, or on behalf of, a purchaser of a preneed contract;

(B) A purchaser may make payments on any preneed contract by making the payment directly to the trustee, the insurance company, or the financial institution where the joint account is held, as applicable, in lieu of paying the seller; and

(C) All sellers shall designate an individual to serve as manager in charge of the seller’s business. This individual shall either reside or work within the state of Missouri. The seller shall designate the manager in charge in its initial application for licensure. If the manager in charge changes, the seller shall provide written notice to the board within thirty (30) days of the change.


NOTES

The remaining terms “shall” are essential for the protection of the public.
20 CSR 2120-3.300 Provider Includes Funeral Establishment

PURPOSE: This rule establishes that a provider in a preneed contract includes, but is not limited to, a funeral establishment that has agreed to undertake the obligations of a preneed contract under sections 436.400 to 436.520, RSMo.

(1) As defined by section 333.011(10), RSMo, the provider of services under any preneed contract pursuant to sections 436.400 to 436.520, RSMo, shall include any licensed funeral establishment that has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo.

(2) Any provider who is a licensed funeral establishment who has agreed to undertake the obligations of a preneed contract pursuant to sections 436.400 to 436.520, RSMo, must meet all requirements of both a licensed funeral establishment and a preneed provider pursuant to Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo.


NOTES
The remaining terms “shall” are essential for the protection of the public
20 CSR 2120-3.305 Funeral Director Agent Registration

PURPOSE: This rule establishes the reporting requirement for any funeral directors serving as preneed agents.

(1) Any funeral director acting as a preneed agent shall report the name and address of each preneed seller for whom the funeral director is authorized to sell, negotiate, or solicit preneed contracts to the board on a form prescribed by the board.

(2) Any funeral director shall also identify himself or herself as acting as a preneed agent on his or her biennial report form to the board by checking the appropriate box on the form prescribed by the board.


NOTES
The regulation mirrors that of 20 CSR 2120-3.405
20 CSR 2120-3.310 Change in Seller Affiliation

PURPOSE: This rule explains the provider’s obligation for a change in seller affiliation under a preneed contract.

(1) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller’s preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:
   (A) Name and address of the provider;
   (B) License number of the provider;
   (C) Name and address of the seller; and
   (D) Effective date of the authorization or agreement.

(2) This notice may be provided to the board electronically, but the original signed document shall be provided to the board by mail or hand delivery.


NOTES

The remaining terms “shall” are essential for the protection of the public.
20 CSR 2120-3.400 Preneed Agents—Requirements of Agent’s Seller

PURPOSE: This rule explains that any licensed preneed agent in the state of Missouri must be authorized to selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the State Board of Embalmers and Funeral Directors.


NOTES
The remaining terms “must” are essential for the protection of the public.
20 CSR 2120-3.405 Preneed Agents—Missouri Law Exam

PURPOSE: This rule prescribes the process for certifying preneed seller agents to take the Missouri Law exam as a requirement for registration.

1. All preneed agents registering with the board shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam as a requirement for registration.

2. Successful completion of the Missouri Law exam shall be a prerequisite to registration.

3. This exam may be taken any time after filing the Notice of Intent to Apply.

4. Preneed agent applicants must successfully complete the Missouri Law exam on or before March 31, 2010, prior to the expiration of the Notice of Intent to Apply.

5. The Missouri Law exam covers the following:
   (A) Knowledge of Chapter 333, RSMo;
   (B) Rules governing the practice of embalming, funeral directing, and funeral home licensing along with government benefits, statutes, and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies;
   (C) Knowledge of sections 436.400 to 436.520, RSMo, relating to preneed statutes;
   (D) Knowledge of Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes; and
   (E) Questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees.

6. Notification of intent to take this examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.


NOTES
The remaining terms “shall” and “must” are essential for the protection of the public
20 CSR 2120-3.410 Preneed Agent’s Seller Must Be Licensed

PURPOSE: This rule explains that any licensed preneed agent in the state of Missouri must be selling preneed contracts on behalf of a seller who is licensed in the state of Missouri.

(1) Any preneed agent registered by the Missouri State Board of Embalmers and Funeral Directors to sell a preneed contract for or on behalf of a seller must be the agent of a seller who is licensed to sell preneed contracts by the Missouri State Board of Embalmers and Funeral Directors.


NOTE

This regulation is a proposed rescission as it duplicates 20 CSR 2120-2.340
20 CSR 2120-3.505 Types of Financing; Other Financing Still Preneed

PURPOSE: This rule identifies the acceptable funding mechanisms for preneed contracts.

(1) Preneed contracts shall only be funded by:
   (A) A preneed trust as defined by section 436.405.1(8), RSMo;
   (B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or
   (C) A joint account as defined by section 436.405.1(4), RSMo.

(2) Preneed contracts funded by any other mechanism shall be non-compliant with the requirements of sections 436.400 to 436.520, RSMo. All non-compliant preneed contracts shall still be subject to regulation by the board under sections 436.400 to 436.520, RSMo.


NOTES
The remaining terms “shall” are essential to the protection of the public
20 CSR 2120-3.515 Single Premium Annuity Contracts

PURPOSE: This rule states that while only single premium annuity contracts can fund an insurance-funded preneed contract, purchasers may purchase replacement single premium annuity contracts during the contract period.

(1) An insurance-funded preneed contract may be funded by an insurance policy or a single premium annuity contract.

(2) An insurance-funded preneed contract may not be funded by an annuity other than a single premium annuity contract.

(3) If a purchaser funds an insurance-funded preneed contract with a single premium annuity contract, the purchaser may replace the single premium annuity contract with another single premium annuity contract at any time in the duration of the preneed contract.

(4) Any replacement single premium annuity contract must meet all the requirements of the initial annuity contract, Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, and any other requirements under state or federal law.


NOTES

The remaining terms “must” are essential for the protection of the public
20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee

PURPOSE: This rule clarifies that an independent financial advisor is an agent of the trustee in a trust-funded preneed contract.

(1) An independent financial advisor, as provided in section 436.440.6, RSMo, is an agent, as provided in section 436.440, RSMo, of the trustee.


501 Elm
Pierce City, MO 65723
417-476-2626

Sandy Sebastian
Missouri State Board of Embalmers and Funeral Directors
3605 Missouri Boulevard
PO Box 423
Jefferson City, MO 65102-0423

Re: Executive Order No. 17-03
20 CSR 2120-2.010(21) and (26)

Dear Sandy:

Pursuant to Executive Order No. 17-03, I am offering the following comments regarding subparagraphs (21) and (26) of 20 CSR 2120-2.010. If you will recall, the staff brought these subparagraphs to the attention of the State Board more than a year ago in regards to the industry's use of trade embalmers. The Board was advised that trade embalmers could be cited under subparagraph (21) when performing services at an establishment where not employed. The staff also advised the Board that the funeral establishment could be cited under subparagraph (26). It is my recollection that the Board discussed the issues at length, but did not take action on either paragraph.

These paragraphs need to be revised to allow funeral homes to continue to use trade embalmers. Many rural funeral homes also help each other out with embalming services. As currently worded, the rule is unduly burdensome on small funeral homes.

Thank you for considering these issues.

Sincerely,

[Signature]

Donavan C. Lakin
Comments of The Missouri Funeral Directors and Embalmers Association regarding current Rules pertaining to funeral service

1. The 75% to pass exam issue.

Throughout the current rules, it is stated that an applicant must score at least 75% to pass tests administered by the International Conference. As the Board is aware, the conference no longer gives percentage scores but a number score with some questions weighted more than others. [Example: 20 CSR 2120-2.010 (11)]

This creates a situation where an applicant could theoretically pass 75% of the questions correct on the exam, thereby meeting Missouri law, but still receive a failing grade from the Conference.

2. Oral Exams.

In several places in the Rules [Example: 20 CSR 2120-2.010 (17) and (18)] oral examinations are referenced for embalmers when those have not been done for some time now.

3. Death Certificates.

Death Certificates are regulated by the Department of Health and Senior Services and the State Registrar of Vital Records, yet, at 20 CSR 2120-2.030, (4) and (5) the State Board of Embalmers and Funeral Directors creates requirements for these death certificates. It is submitted that the State Board has no authority to issue such regulations. Further the embalmer requirements in these sections is in conflict with the statutory provisions that specifically set out what is to be on death certificates without giving any authority for the State Board to add any items. Lastly, as this embalmer information is not on the model forms approved by the states, it requires Missouri forms to be modified from the standard.


20 CSR 2120-2.060 (1)(J) says that an applicant must provide “any other information the board may require.” It is submitted that this is vague, over-broad and potentially highly burdensome and a barrier to entry into the profession without any basis in public safety.

5. Editorial Comments.

20 CSR 2120-2.060(5) contains comments not appropriate for rules and regulations.

6. Test taking

At several spots, for example, 20 CSR 2120-2.060 (10) the applicant is only allowed to take the required examinations after the completion of the apprenticeship. There is no compelling state interest or public safety requirement for requiring this. An applicant should be able to take the tests at any time after their application is filed.
accepted. Of course the license would not be issued until all of the requirements are met, but there is no reason someone should not be allowed to take the tests while they are doing their internship. The current requirement can be a burden on applicants in getting all of the items necessary done within the mandatory time-limit without there being any reason the state needs to require this.

7. Supervision

At several spots, for example, 20 CSR 2120-2.060(15) “supervision” is mandated without that ever being defined. To further complicate the matter, sometimes the phrase “direct supervision” is set out. What do these terms mean? Without making it clear what supervision consists of the rules are unenforceably vague.

8. Cemetery attendance.

We challenge anyone to read 20 CSR 2120-2.060 (17) in its entirety and afterwards be certain what the rules are on when a funeral director needs to be present at a cemetery and when they do not. The regulation is overly long, confusing and seemingly contradictory in spots.

9. D.B.A.

Currently the Board only allows a funeral establishment to have one “Doing Business As” name. There is no state or public need for such a restriction on funeral establishments which does not apply to other businesses. See, 20 CSR 2120-2.070 (13)

10. Cremations

20 CSR 2120-2.071 (1) (21) and (24) contain very vague “definitions” of “cremation boxes” and “urns.” What is the legal difference between a box and an urn? What is “durable?” Without clearer definitions, it is impossible to be certain if you are complying with the law.

Next, 20 CSR 2120-2.071 (22) requires that when shipping, the cremation box be placed in a corrugated cardboard box. Why? What is so special about corrugated cardboard? What is the state interest in using this material?

Lastly 20 CSR 2120-2.071 (18) mandates a physical impossibility as is is not possible to remove ALL residue from the cremation. That is a scientific impossibility.

11. Food and Beverages.

20 CSR 2120-2.090 (10) at one point in time it appears that the intent was to put into the Regulations, a Rule that restricted food and beverage throughout the entire funeral home. For some reason, however, this was put in the Embalming room section of the Regs. As a result, current Missouri Regulations state that you can have coffee (in single service cups) in the embalming room! This is an OSHA violation needless to say. As for banning food and beverage in other areas of the funeral home, a Federal Court has already held that there is no compelling state interest in such a restriction.

12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the Board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
20 CSR 2120-2.010 Embalmer's Registration and Apprenticeship

PURPOSE: This rule establishes the procedures to be used to secure an embalmer's license.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited institution of mortuary science, shall complete a practicum as required by the accredited institution of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.

(3) After registration with the board as a practicum student in an accredited institution of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director. Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited institution of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee.

(4) During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

(5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.

(6) Upon successful completion of the practicum, the practicum student registration shall become null and void. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.

(7) After graduating from an accredited institution of mortuary science education, the applicant then shall file, with the board, an official transcript of his/her embalming school grades showing s/he is a graduate of that school. In addition, the applicant shall ensure that his/her official copy of the national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.
Effective July 30, 2004, the Missouri State Board embalmers’ examination shall consist of the National Board Funeral Service Arts section, the National Board Funeral Service Science section, and Missouri Law section. Application, payment, scheduling, and administration for the national board examinations will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section for another Missouri license within the jurisdiction of the board and the license is in active status. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

The embalming examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules, and regulations governing the care, custody, shelter, and disposition of dead human bodies and the transportation thereof.

An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

Those applicants achieving seventy-five percent (75%) on each of the three (3) sections of the embalming examination will be deemed to have passed the board’s embalming examination. Any applicant who scores less than seventy-five percent (75%) on any section of the embalming examination may retake the failed section, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed section, the applicant shall score at least seventy-five percent (75%) to pass.

After the applicant has made a passing grade on the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the embalming examination, s/he then may apply for registration as an apprentice embalmer. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination. This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s), location(s), and license number(s) of the licensed funeral establishment(s) where s/he is serving as an apprentice. If the apprentice embalmer begins work at any other licensed funeral establishment during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, within ten (10) business days after the change has been made.

The period of apprenticeship under this rule shall be at least twelve (12) consecutive months. The apprentice embalmer shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer. During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.
(15) Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five percent (75%) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.

(16) An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of twenty-five (25) dead human bodies, shall be submitted to the board at the time of completion of the apprenticeship period and prior to the oral examination.

(17) After successful completion of the embalmer's examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination. To appear for the oral examination, the embalmer applicant shall:
(A) Submit an application on a form supplied by the board and pay the applicable fees to the board; and
(B) Successfully pass the oral examination administered by the board for licensure.

(18) The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.

(19) After satisfactory completion of these requirements, an embalmer's license shall be issued to an apprentice embalmer upon payment of the applicable fee and subject to the provisions of section 333.121, RSMo.

(20) An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited institution of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board and the applicant shall be required to appear for the oral examination within five (5) years of the new date of application. No previous practicum, apprenticeship, application, or Missouri Law section will be considered for a new application. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Service Science section, or designee of the board will be accepted.

(21) A Missouri licensed embalmer may engage in the practice of embalming in the state of Missouri only in Missouri licensed funeral establishments. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s), and license number(s) where the embalmer is performing embalming.

(22) A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.
Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except, the Missouri licensed embalmer shall be exempt from the requirement of a funeral director apprenticeship.

Should an individual desire to obtain a Missouri embalmer’s license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination, and shall be required to complete a six (6) consecutive month period of apprenticeship during which time s/he shall be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer’s license under this section. No previous apprenticeship, application, or examination will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts section and the National Board Funeral Science section will be accepted.

After successful completion of the embalmer’s examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application of a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.

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

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


20 CSR 2120-2.010 Embalmer’s Registration and Apprenticeship

PURPOSE: This proposed amendment provides additional clarification of the requirements for licensure updates the terminology to be more consistent with current date; provides additional clarity relating to practicum registrations; and addresses the elimination of the previously required embalmer oral examination requirement.

PURPOSE: This rule establishes the procedures to be used to secure an embalmer’s license.

(1) Every person desiring to enter the profession of embalming dead human bodies within Missouri, and who is enrolled in an accredited [institution] program of mortuary science, shall complete a practicum as required by the accredited [institution] program of mortuary science education.

(2) For every person desiring to enter the profession of embalming dead human bodies within Missouri the board may conduct a criminal history background check through the Missouri State Highway Patrol. Applicants shall submit to the board the applicable fee for the criminal history background check as determined by the Missouri State Highway Patrol.

(3) After registration with the board as a practicum student in an accredited [institution] program of mortuary science education, the student may assist in a Missouri licensed funeral establishment preparation room only under the direct supervision of a Missouri licensed embalmer and may assist in the direction of funerals only under the direct supervision of a Missouri licensed funeral director Each person desiring to be a practicum student shall register with the board as a practicum student on the form provided by the board in accordance with the requirements of the accredited [institution] program of mortuary science prior to beginning the practicum. Applications shall be accompanied by the applicable fee.

(4) If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment prior to practicing as a practicum student at that location. During the period of the practicum, the certificate of registration issued to the practicum student shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the practicum student is working.

(5) The practicum student registration authorizes the registrant to engage in the practice of embalming only at the Missouri licensed funeral establishment(s) designated on the certificate of registration and only under the direct supervision of a Missouri licensed embalmer. The practicum student may assist in the practice of funeral directing only under the direct supervision of a Missouri licensed funeral director and only at the Missouri licensed funeral establishment(s) designated on the certificate of registration. If during the course of the practicum, the practicum student wishes to work at a Missouri licensed funeral establishment other than as designated on the certificate of registration, the practicum student shall notify the board in writing of the name, location, and Missouri licensed funeral establishment license number of the new Missouri licensed funeral establishment within ten (10) days of the change.]
(5) If the practicum student needs to extend the practicum a new application will be applicable. Upon successful completion of the practicum, the practicum student registration shall become null and void on the end date identified on the practicum registration. A practicum shall be deemed successfully completed when the practicum student has achieved a passing grade on the practicum from the institution of mortuary science at which the practicum student is enrolled.

(6) After graduating from an accredited program of mortuary science education, the applicant then shall file, with the board, an official transcript of his/her embalming school grades showing he/she is a graduate of that program. In addition, the applicant shall ensure that his/her official copy of the national board examination results are provided to the board in writing by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board. An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts examination and the National Board Funeral Service Science examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(7) Effective July 30, 2004, the Missouri State Board embalmers’ examination shall consist of the National Board Funeral Service Arts examination, the National Board Funeral Service Science examination, and Missouri Law examination. Application, payment, scheduling, and administration for the National Board Funeral Service Arts examination will be made directly through the International Conference of Funeral Service Examining Boards, Inc., or other designee of the board. An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board and if the current license remains in active status or the applicant was a registered embalmer apprentice or a registered funeral director apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination results will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.

(8) The embalmer examination shall cover knowledge of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration, chemistry, restorative arts, together with statutes, rules, and regulations governing the care, custody, shelter, and disposition of dead human bodies and the transportation thereof.

(9) An applicant shall submit proof of having satisfied the requirements of the National Board Funeral Service Arts section and the National Board Funeral Service Science section of the examination by having his/her official copy of the scores from the International Conference of Funeral Service Examining Boards, Inc., or designee of the board transmitted to the board from the Conference. In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination.
Those applicants achieving seventy-five percent (75\%) or greater on each of the [three (3)] [section] examinations of the embalm[inger] examination will be deemed to have passed the board’s embalm[inger] examination. Any applicant who scores less than seventy-five percent (75\%) on any [section] examination of the embalm[inger] examination may retake the failed [section] examination, upon application and payment of the administration and reexamination fees. On any reexamination of a single failed [section] examination, the applicant shall score at least seventy-five percent (75\%) to pass.

After the applicant has made a passing grade on the National Board Funeral Service Arts [section] examination and the National Board Funeral Service Science [section] examination of the embalm[inger] examination, [s/he] he/she then may apply for registration as an apprentice embalmer. [In lieu of the National Board Funeral Service Arts examination, successful completion of the Missouri Funeral Service Arts examination will be accepted, or the board may accept successful completion of an examination administered by another state, territory, or province of the United States that is substantially equivalent or more stringent than the Missouri Funeral Service Arts examination. This application shall contain the name(s) of the Missouri licensed embalmer(s) under whom s/he will serve. Each supervisor must be licensed and registered with and approved by the board. Any change in supervisor shall also be registered and approved within ten (10) business days after the change has been made. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee. Application forms are available from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.]

Each apprentice embalmer shall provide to the board, on the application provided by the board, the name(s) of the Missouri licensed embalmer(s) under whom [s/he] he/she will serve, the name(s), location(s), and license number(s) of the licensed funeral establishment(s) where [s/he] he/she [is] will be serving as an apprentice. Each supervisor must be licensed and registered with and approved by the board. If the apprentice embalmer begins work at any other licensed funeral establishment or has a change in supervisors during the period of apprenticeship, the apprentice embalmer shall notify the board, on the form provided by the board, of the name(s), and license number(s) or each funeral establishment(s) where he/she will be serving as an apprentice and the supervisor must be licensed and registered with and approved by the board prior to beginning as an apprentice embalmer at the funeral establishment [within then business days after the change has been made]. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fee.

The period of apprenticeship under this rule shall be at least twelve (12) consecutive months. The apprentice embalmer shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer and embalm at least twenty-five (25) dead human bodies. [During the period of the apprenticeship, the certificate of registration issued to the apprentice shall be displayed, at all times, in a conspicuous location accessible to the public at each funeral establishment where the apprentice is working.]

Prior to completion of the period of apprenticeship, the apprentice embalmer shall achieve a grade of seventy-five percent (75\%) or greater on the Missouri Law exam. This exam may be taken any time after graduating from an accredited institution of mortuary science, but shall be successfully completed prior to appearing before the board for oral examination. The Missouri Law exam covers knowledge of Chapter 333, RSMo, and the rules governing the practice of embalming, funeral directing, and funeral home licensing, along with government benefits, statutes and rules governing the care, custody, shelter, disposition, and transportation of dead human bodies. The Missouri Law section also contains questions regarding Chapter 436, RSMo, relating to pre-need statutes and Chapters 193 and 194, RSMo, relating to the Missouri Department of Health and Senior Services statutes, as well as questions regarding Federal Trade Commission rules and regulations and Occupational Safety and Health Administration (OSHA) requirements as they apply to Missouri licensees. Notification of intent to take this section of the examination shall be received by the board at least fifteen (15) working days prior to the date the candidate plans to sit for the examination.
An affidavit provided by the board, signed by both the apprentice and the supervisor(s) verifying that the applicant has successfully completed the embalming of at least twenty-five (25) dead human bodies, devoted at least thirty (30) hours per week to his/her duties as an apprentice embalmer and has served at least twelve (12) consecutive months shall be submitted to the board at the time of completion of the apprenticeship period [and prior to the oral examination]. The embalmer apprentice registration authorizes the registrant to engage in the practice of embalming only during the period of apprenticeship and only under the supervisor(s) registered with the board. Once the apprenticeship is successfully completed as defined in this rule, the embalmer apprentice registration is null and void. Any Missouri licensed embalmer who allows a former apprentice who has completed his/her apprenticeship to engage in the practice of embalming before that apprentice is fully licensed shall be subject to discipline for misconduct under section 333.330.2, RSMo.

Each embalmer applicant shall achieve a grade of seventy-five (75) or greater on the Missouri Law examination, developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board.

After successful completion of the embalmer’s examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall [appear for the oral examination. To appear for the oral examination, the embalmer applicant shall:] [(A)] [S] submit an application for licensure as an embalmer on a form supplied by the board and pay the applicable fees to the board[; ; and (B) Successfully pass the oral examination administered by the board for licensure].

The oral examination shall be conducted by one (1) or more board members who hold a Missouri state embalmer license, or a member of the board staff that is a licensed embalmer, and shall be conducted in person at a place and time established by the board. The oral examination shall consist of no fewer than five (5) substantive questions related to the practice of embalming and/or the statutes, rules, and regulations governing embalming practice in the state of Missouri. Whether the applicant satisfactorily completes the oral examination shall be in the sole discretion of the board.]

After satisfactory completion of these requirements, an embalmer’s license shall be issued to an [apprentice] embalmer applicant upon payment of the applicable fee and subject to the provisions of section 333.[121]330, RSMo.

An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited [institute] program of mortuary science. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed with the board and the applicant shall be required to meet the requirements for licensure [appear for the oral examination] within five (5) years of the new date of application. No previous practicum, apprenticeship [,] or application [, or Missouri Law section] will be considered for a new application. However, the successful examination results of the National [or Missouri [Board] Funeral Service Arts [section] examination [and] the National Board Funeral Service Science [section] examination, and the Missouri Law examination, if applicable, developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board will be accepted.

A Missouri licensed embalmer may engage in the practice of embalming in the state of Missouri only in Missouri licensed funeral establishments licensed for embalming. Each embalmer shall inform the board in writing of each funeral establishment name(s), location(s), and license number(s) where the embalmer is performing embalming.

A Missouri licensed embalmer has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.
Any embalmer licensed by the board in the state of Missouri who wishes to become a licensed funeral director shall be required to comply with all requirements necessary for licensure as a funeral director, except, the Missouri licensed embalmer shall be exempt from the requirement of a funeral director apprenticeship.

Should an individual desire to obtain a Missouri embalmer’s license after his/her license has become void under section 333.081.3, RSMo, the individual shall be required to make application, obtain a passing grade on the embalmer examination, if applicable, and shall be required to complete a six (6) consecutive month period of apprenticeship, during which time [s/he] he/she shall devote at least thirty (30) hours per week to his/her duties as an apprentice embalmer and be required to embalm at least twelve (12) dead human bodies under the supervision of a Missouri licensed embalmer. The applicant shall be required to pay the current applicable apprenticeship and application fees to obtain a new embalmer’s license under this section. No previous apprenticeship, application[,] or examination, if applicable, will be considered for a new application under this section. However, the successful examination results of the National Board Funeral Service Arts [section] examination, [and] the National Board Funeral Science [section] examination and the Missouri Law Section (if applicable) developed and furnished by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board will be accepted.

After successful completion of the embalmer’s examination and the embalmer apprenticeship as provided in these rules, the embalmer applicant shall appear for the oral examination at a location specified by the board. To arrange for the oral examination, the embalmer applicant shall submit an application of a form supplied by the board and pay the applicable fees to the board. Applicants shall successfully pass the oral examination administered by the board for licensure.

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

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


Sebastian, Sandy

From: donald otto <donottojr@gmail.com>
Sent: Friday, October 06, 2017 2:32 PM
To: Sebastian, Sandy
Subject: comments on Missouri Funeral Regulations

Comments of The Missouri Funeral Directors and Embalmers Association regarding current Rules pertaining to funeral service

1. The 75% to pass exam issue.

Throughout the current rules, it is stated that an applicant must score at least 75% to pass tests administered by the International Conference. As the Board is aware, the conference no longer gives percentage scores but a number score with some questions weighted more than others. [Example: 20 CSR 2120-2.010 (11)]

This creates a situation where an applicant could theoretically pass 75% of the questions correct on the exam, thereby meeting Missouri law, but still receive a failing grade from the Conference.

2. Oral Exams.

In several places in the Rules [Example: 20 CSR 2120-2.010 (17) and (18)] oral examinations are referenced for embalmers when those have not been done for some time now.

3. Death Certificates.

Death Certificates are regulated by the Department of Health and Senior Services and the State Registrar of Vital Records, yet, at 20 CSR 2120-2.030, (4) and (5) the State Board of Embalmers and Funeral Directors creates requirements for these death certificates. It is submitted that the State Board has no authority to issue such regulations. Further the embalmer requirements in these sections is in conflict with the statutory provisions that specifically set out what is to be on death certificates without giving any authority for the State Board to add any items. Lastly, as this embalmer information is not on the model forms approved by the states, it requires Missouri forms to be modified from the standard.


20 CSR 2120-2.060 (1)(J) says that an applicant must provide “any other information the board may require.” It is submitted that this is vague, over-broad and potentially highly burdensome and a barrier to entry into the profession without any basis in public safety.

5. Editorial Comments.

20 CSR 2120-2.060(5) contains comments not appropriate for rules and regulations.

6. Test taking

At several spots, for example, 20 CSR 2120-2.060 (10) the applicant is only allowed to take the required examinations after the completion of the apprenticeship. There is no compelling state interest or public safety requirement for requiring this. An applicant should be able to take the tests at any time after their application is
accepted. Of course the license would not be issued until all of the requirements are met, but there is no reason someone should not be allowed to take the tests while they are doing their internship. The current requirement can be a burden on applicants in getting all of the items necessary done within the mandatory time-limit without there being any reason the state needs to require this.

7. Supervision

At several spots, for example, 20 CSR 2120-2.060(15) “supervision” is mandated without that ever being defined. To further complicate the matter, sometimes the phrase “direct supervision” is set out. What do these terms mean? Without making it clear what supervision consists of the rules are unenforceably vague.

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We challenge anyone to read 20 CSR 2120-2.060 (17) in its entirety and afterwards be certain what the rules are on when a funeral director needs to be present at a cemetery and when they do not. The regulation is overly long, confusing and seemingly contradictory in spots.

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Currently the Board only allows a funeral establishment to have one “Doing Business As” name. There is no state or public need for such a restriction on funeral establishments which does not apply to other businesses. See, 20 CSR 2120-2.070 (13)

10. Cremations

20 CSR 2120-2.071 (1) (21) and (24) contain very vague “definitions” of “cremation boxes” and “urns.” What is the legal difference between a box and an urn? What is “durable?” Without clearer definitions, it is impossible to be certain if you are complying with the law.

Next, 20 CSR 2120-2.071 (22) requires that when shipping, the cremation box be placed in a corrugated cardboard box. Why? What is so special about corrugated cardboard? What is the state interest in using this material?

Lastly 20 CSR 2120-2.071 (18) mandates a physical impossibility as is is not possible to remove ALL residue from the cremation. That is a scientific impossibility.

11. Food and Beverages.

20 CSR 2120-2.090 (10) at one point in time it appears that the intent was to put into the Regulations, a Rule that restricted food and beverage throughout the entire funeral home. For some reason, however, this was put in the Embalming room section of the Regs. As a result, current Missouri Regulations state that you can have coffee (in single service cups) in the embalming room! This is an OSHA violation needless to say. As for banning food and beverage in other areas of the funeral home, a Federal Court has already held that there is no compelling state interest in such a restriction.

12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
20 CSR 2120-2.030 Registration of Licensees with Local Registrars of Vital Statistics

PURPOSE: This rule outlines the procedure for registering renewal licenses with local registrars.

(1) Pursuant to section 333.091, RSMo every holder of a Missouri embalmer's or funeral director's license, upon receiving his/her initial or renewal license(s), shall register his/her signature, name, address and license number with the local registrar of vital statistics for the registration district in which the licensee practices.

(2) Whenever a licensee changes his/her place of employment from the jurisdiction of one (1) registration district to another registration district, within ten (10) days after that change, s/he shall register with the local registrar to whose jurisdiction s/he has moved.

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.

(4) Each licensed embalmer who embalms a dead human body shall state on the death certificate that s/he embalmed the dead human body described on the death certificate. Each statement must be signed by the licensed embalmer. If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

(5) Each signature of a licensed embalmer on a death certificate must correspond with the same licensee's signature as registered with the local registrar of vital statistics.

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


PROPOSED AMENDMENT

20 CSR 2120-2.030 [Registration of Licensees with Local Registrars of Vital Statistics]

Death Certificate Filings

PURPOSE: The purpose of this amendment is to bring the board’s regulation up to current terminology based on changes made by the Missouri Department of Health and Senior Services electronic death certificate system.

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requirements of Missouri licensed embalmers funeral directors filing death certificates.

[(1) Pursuant to section 333.091, RSMo every holder of a Missouri embalmer’s or funeral director’s license, upon receiving his/her initial or renewal license(s), shall register his/her signature, name, address and license number with the local registrar of vital statistics for the registration district in which the licensee practices.

(2) Whenever a licensee changes his/her place of employment from the jurisdiction of one (1) registration district to another registration district, within ten (10) days after that change, s/he shall register with the local registrar to whose jurisdiction s/he has moved.

(3) The boundaries of the registration district shall be determined as required by the rules promulgated by the Department of Health.

(4)] (1) Each licensed embalmer who embalms a dead human body shall state on the death certificate that [s/he] he/she embalmed the dead human body described on the death certificate. Each statement shall be attested to its accuracy as determined by the Missouri Department of Health and Senior Services. [must be signed by the licensed embalmer.] If the body was not embalmed, the fact that the body was not embalmed shall be stated on the death certificate prior to the filing of the death certificate by the licensed funeral director.

[(5)] (2) Each [signature] authentication of a licensed embalmer and licensed funeral director on a death certificate must correspond with the [same] licensee’s [signature as registered with the local registrar of vital statistics] authentication as approved and licensed by the board.

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

(4) Every licensed embalmer and funeral director shall comply with Chapter 193 RSMo and its accompanying regulations promulgated by the Missouri Department of Health and Senior Services.

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12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the Board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
20 CSR 2120-2.060 Funeral Directing

PURPOSE: This rule outlines the provisions for the practice of funeral directing.

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

(2) Every person who desires to enter the profession of funeral directing in Missouri and who is not entitled to a license under section 333.051, RSMo, shall make application with the board for a Missouri funeral director license on the forms provided by the board and shall pay the funeral director application fee directly to the board. If the applicant has successfully completed the National Board Funeral Service Arts examination, no Missouri Funeral Service Arts examination is required. Application forms can be obtained from the board office or the board’s website at http://pr.mo.gov/embalmers.asp.

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

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

(5) The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. Accordingly, effective February 28, 2010, an apprentice shall not be allowed to register with the board for more than two (2) apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.
(6) Upon registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of a Missouri licensed funeral director. The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working.

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

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

(9) Successful completion of a funeral director apprenticeship shall consist of the following:

(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment; and

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

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

(11) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five percent (75%) or better is achieved on each section. If the applicant fails a section of the examination, the applicant shall be permitted to retake that section of the examination.

(12) All notifications for the funeral director’s examination shall be in writing and received by the board at least forty-five (45) days prior to the date the candidate plans to sit for the examination.

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

(14) An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board if the current license remains in active status.
(15) Any funeral director that allows an unlicensed person to make at-need arrangements for the transportation or removal of a dead human body for or on behalf of the funeral director shall supervise the unlicensed person and shall be responsible for the conduct of the unlicensed person. This section shall not be construed to allow any unlicensed person to perform any other act for which a license is required by Chapter 333, RSMo.

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

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

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

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

(18) Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

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

(20) A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following at-need arrangements with the person having the right to control the incidents of disposition:

(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;

(B) Embalming, cremation, care, or preparation; and

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

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

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

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

(24) Limited License.
(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited funeral director shall only engage in the activities of funeral directing authorized for a Function B funeral establishment.

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

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

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

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

(E) If a limited licensee desires to obtain a full funeral director’s license, the licensee shall be required to complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.

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

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

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

(28) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

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

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

(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.
(30) The rules in this division are declared severable. If any rule, or section of a rule, is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions shall remain in full force and effect unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.


PROPOSED AMENDMENT

20 CSR 2120-2.060 Funeral Directing

Purpose: The purpose of this amendment is to bring the existing regulation current with terminology used and provide additional clarification. The amendment also modifies the requirements relating to where an apprentice may fulfill their apprentice requirements by requiring the funeral establishment to be within Missouri.

PURPOSE: This rule outlines the provisions for the practice of funeral directing.

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

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

(3) Effective July 30, 2004, the funeral director examination developed by the International Conference of Funeral Service Examining Boards, Inc., or designee of the board, shall consist of the Missouri Law examination and the Missouri Funeral Service Arts examination. In lieu of the Missouri Funeral Service Arts examination, successful completion of the National Board Funeral Service Arts examination results will be accepted.
(4) To serve as an apprentice funeral director, the applicant shall file with the board a completed funeral director application on the form prescribed by the board and pay applicable fees. Application forms and a list of fees can be obtained from the board office or on the board’s website.

(5) The funeral director apprenticeship is not intended as a long-term method of practicing as a funeral director in the absence of progress toward licensure. Accordingly, effective February 28, 2010, an apprentice shall not be allowed to register with the board for more than two apprenticeship periods that begin on or after February 28, 2010, unless otherwise approved by the board for good cause.

(6) Each registered funeral director apprentice shall provide to the board, on the application provided by the board, the name(s), and the license number(s) of each funeral establishment(s) where he/she will serve as an apprentice. Each supervisor must be licensed and registered with and approved by the board. Upon completed application, registration and payment in full of all applicable fees, the board shall issue the apprentice funeral director applicant a funeral director apprentice registration. This registration authorizes the apprentice registrant to engage in the practice of funeral directing under the supervision of the Missouri licensed funeral director supervisor(s) registered with the board. The funeral director apprentice registration, or a copy thereof, shall be displayed, at all times, in a conspicuous location accessible to the public at each establishment where the apprentice is working. If the funeral director apprentice begins work at any other licensed funeral establishments or has a change in supervisors during the course of the apprenticeship, the apprentice shall notify the board, on the form provided by the board, of the name(s), location(s), and license number of the new apprentice location prior to beginning an apprenticeship at that location or under that supervisor. Applications shall be submitted on the forms provided by the board and shall be accompanied by the applicable fees.

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

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

(9) Successful completion of a funeral director apprenticeship shall consist of the following:

(A) Completed service as an apprentice funeral director for a period consisting of at least twelve (12) consecutive months in a Function C funeral establishment, to include visitations and funeral ceremonies in a Function D only when under the direction of the Function C funeral establishment the apprentice has registered with the board; [and]
(B) Filing with the board a notarized affidavit(s) signed by the apprentice and his/her supervisor(s) that he/she has arranged for and conducted a minimum of ten (10) funeral ceremonies under the supervision of a Missouri licensed funeral director.; and

(C) Devoted at least a minimum of 15 hours per week to his/her duties as an apprentice under the supervision of a Missouri licensed funeral director.

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

(11) An applicant will be deemed to have successfully completed the funeral director examination when a score of seventy-five [percent] (75 [%]) or better is achieved on each [section] examination. If the applicant fails an [section of the] examination, the applicant shall be permitted to retake that [section of the] examination. A mandatory thirty (30) day waiting period is required between all examinations.

[(12) All notifications for the funeral director’s examination shall be in writing and received by the board at least forty-five (45) days prior to the date the candidate plans to sit for the examination.]

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

[(14)] (13) An applicant shall be exempt from the requirement of successful completion of the Missouri Law examination if the applicant has successfully completed the Missouri Law examination for another Missouri license within the jurisdiction of the board if the current license remains in active status or the applicant was a registered funeral director apprentice or an embalmer apprentice at the time of the examination and such examination occurred within the last twenty-four (24) months.

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

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

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

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

(B) Nothing in this rule shall be interpreted as requiring the Missouri licensed funeral director to leave the cemetery before disposition is complete. Furthermore, nothing in this rule shall be interpreted as relieving the Missouri licensed funeral director of any responsibilities he/she has under his/her contract with the person(s) having the right to control the incidents of burial.
Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

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

A Missouri licensed funeral establishment or funeral director shall not allow an unlicensed person to make the following at-need arrangements with the person having the right to control the incidents of disposition:
(A) Arrangements for final disposition, supervision of visitation and memorial ceremony, grave attendance, cremation, entering into a contractual relationship for performance of any other funeral services;
(B) Embalming, cremation, care, or preparation; and
(C) Nothing in this subsection shall be construed to apply to persons exempt from Chapter 333, RSMo.

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

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

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

Limited License.
(A) A person holding a limited license shall only be allowed to work in a funeral establishment that is licensed as a Function B establishment (cremation only). A limited funeral director licensee shall only engage in the activities of funeral directing authorized for a Function B funeral establishment. A limited licensee may serve as a funeral director in charge of only a Function B funeral establishment.
(B) Every person desiring a limited license shall provide the following to the board:
   1. Proof of being at least eighteen (18) years of age;
   2. Proof of possession of a high school diploma or its equivalent;
   3. Evidence of being a person of good moral character;
   4. Proof of successful completion by achieving a score of seventy-five percent (75%) or better on the Missouri Law examination;
   5. Completed application form as provided by the board;
   6. Payment of applicable fees;
   7. Payment of any fee charged by the Missouri Highway Patrol for a criminal history background check; and
   8. Any other information the board may require.
(C) Every limited licensee shall provide the board with the name, location, and license number of each Function B funeral establishment where he/she is employed.
(D) A limited licensee shall be obligated to comply with all Missouri laws governing funeral directors subject to the limitations imposed by this rule and section 333.042.2, RSMo.
(E) If a limited licensee desires to obtain a full funeral director’s license, the licensee shall be required to make application as a funeral director, meet the licensure requirements, and pay all applicable fees. [complete an apprenticeship consisting of at least twelve (12) consecutive months as required by section 333.042.2, RSMo, and accompanying regulations OR fulfill the education requirements set forth in section 333.042.3, RSMo. The limited licensee shall also provide to the board proof of successful completion of the remaining sections of the funeral director examination as required by these regulations. The applicant shall be exempt from the requirement of successful completion of the Missouri Law section if the applicant has successfully completed the Missouri Law section within twelve (12) months of the date that the board receives the new application.

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

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

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

(28) A Missouri licensed funeral director has the ongoing obligation to keep the board informed if the licensee has been finally adjudicated or found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, whether or not sentence was imposed. This information shall be provided to the board within thirty (30) days of being finally adjudicated or found guilty.

(29) Person Deemed to be Engaged in the Practice of Funeral Directing.
(A) No person shall be deemed by the board to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of the dead human body of a member of one’s own family or next of kin as provided by section 194.119, RSMo, provided that the activity is not conducted as a business or for business purposes.
(B) The board shall not deem a person to be engaged in the practice of funeral directing or to be operating a funeral establishment if the person prepares, arranges, or carries out the burial of a dead human body pursuant to the religious beliefs, tenets, or practices of a religious group, sect, or organization, provided that the activity is not conducted as a business or for business purposes.

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

State Board of Embalmers and Funeral Directors
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Sebastian, Sandy

From: embalm@pr.mo.gov
Sent: Sunday, September 17, 2017 10:48 AM
To: Embalmers, PR; Sebastian, Sandy
Subject: 2017 Rule Review

Date Received: 9/17/2017 10:48:00 AM
Rule: 20 CSR 2120 2070 Funeral Establishments
Comments Filed on Behalf of: Self
Name: Stalter Legal Services
Comments: This comment concerns the following language from subparagraph (9): Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained. Over the course of the past two years, clients have sought to amend their establishment license applications to add an ä?oså¿ to ä?ohomeå¿, or to add reference to a town their establishment name, or in one instance, to remove the periods fromå¿ L.L.C.å¿. The Board advised that these constitute name changes under the above cited regulation, and that new licenses must be obtained. This represents a literal interpretation of the regulation that is burdensome to the licensee without any perceivable benefit to the consumer. I find nothing in Chapter 333 to support the Boardå¿Ts strict application of the regulation. The same comment is made with regard to 20 CSR 2120-3.010 and 20 CSR 2120-3.020.
Email Address: wastal@swbell.net
Address: 
License #:
Sandy Sebastian  
Missouri State Board of Embalmers and Funeral Directors  
3605 Missouri Boulevard  
PO Box 423  
Jefferson City, MO 65102-0423  

Re: Executive Order No. 17-03  
20 CSR 2120-2.070(9)

Dear Sandy:  

Pursuant to Executive Order No. 17-03, I am offering the following comments regarding 20 CSR 2120-2.070(9). Specifically, my comments regard the following sentence of that paragraph:  

Whenever the ownership, location, or name of the Missouri licensed establishment is changed, a new license shall be obtained.

Over the course of the past two years, clients have sought to amend their establishment license applications to add an “s” to “home”, or to add reference to a town their establishment name, or in one instance, to remove the periods from “L.L.C.”. The Board advised that these constitute name changes subject to the above cited regulation, and that new licenses must be obtained. This represents a literal interpretation of the regulation that is burdensome to the licensee without any perceivable benefit to the consumer. I find nothing in Chapter 333 to support the Board’s strict application of the regulation. The same comment is made with regard to 20 CSR 2120-3.010 and 20 CSR 2120-3.020.

Thank you for the State Board’s consideration of this issue.

Sincerely,

William Stalter
Date Received: 8/8/2017 11:17:02 AM
Rule: 20 CSR 2120 2070 Funeral Establishments
Comments Filed on Behalf of: Self
Name: Stalter Legal Services
Comments: I appreciate that R.S.Mo. Â§ 417.200 requires licensees to file a fictitious name registration with the Secretary of State when doing business under a name other than their true name. Several of my clients operate multiple funeral establishments and an active preneed program. The clients would like to use one DBA when marketing for at need services and a different DBA when marketing preneed arrangements. As you are aware, the State Board interprets CSR 2120-2.070(9) to limit a Chapter 333 licensee to the use of a single DBA. When I have raised this issue before the State Board during public sessions, no explanation was offered as to how or why a single DBA is essential to health, safety, or welfare of consumers. The regulation is unduly burdensome, and should be revised to eliminate any restrictions on the number of DBAs. It may be appropriate to require that each such DBA be registered with the Secretary of State pursuant to R.S.Mo. Â§ 417.200.
Email Address: wastal@swbell.net
Address: 11443 West 105th Terrace
License #:
August 8, 2017

Sandy Sebastian  
Missouri State Board of Embalmers and Funeral Directors  
3605 Missouri Boulevard  
PO Box 423  
Jefferson City, MO 65102-0423

Re: Executive Order No. 17-03  
20 CSR 2120-2.070(9)

Dear Sandy:

Pursuant to Executive Order No. 17-03, I am offering the following comments regarding 20 CSR 2120-2.070(9). Specifically, my comments regard the first sentence of that paragraph:

(9) The establishment license issued by the board is effective for a fixed place or establishment and for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) “doing business as” name.

I appreciate that R.S.Mo. § 417.200 requires licensees to file a fictitious name registration with the Secretary of State when doing business under a name other than their true name. Several of my clients operate multiple funeral establishments and an active preneed program. The clients would like to use one DBA when marketing for at need services and a different DBA when marketing preneed arrangements. As you are aware, the State Board interprets CSR 2120-2.070(9) to limit a Chapter 333 licensee to the use of a single DBA. When I have raised this issue before the State Board during public sessions, no explanation was offered as to how or why a single DBA is essential to health, safety, or welfare of consumers.

The regulation is unduly burdensome, and should be revised to eliminate any restrictions on the number of DBAs. It may be appropriate to require that each such DBA be registered with the Secretary of State pursuant to R.S.Mo. § 417.200.

Thank you for the State Board’s consideration of this issue.

Sincerely,

William Stalter
Sebastian, Sandy

From: donald otto <donottojr@gmail.com>
Sent: Friday, October 06, 2017 2:32 PM
To: Sebastian, Sandy
Subject: comments on Missouri Funeral Regulations

Comments of The Missouri Funeral Directors and Embalmers Association regarding current Rules pertaining to funeral service

1. The 75% to pass exam issue.

Throughout the current rules, it is stated that an applicant must score at least 75% to pass tests administered by the International Conference. As the Board is aware, the conference no longer gives percentage scores but a number score with some questions weighted more than others. [Example: 20 CSR 2120-2.010 (11)]

This creates a situation where an applicant could theoretically pass 75% of the questions correct on the exam, thereby meeting Missouri law, but still receive a failing grade from the Conference.

2. Oral Exams.

In several places in the Rules [Example: 20 CSR 2120-2.010 (17) and (18)] oral examinations are referenced for embalmers when those have not been done for some time now.

3. Death Certificates.

Death Certificates are regulated by the Department of Health and Senior Services and the State Registrar of Vital Records, yet, at 20 CSR 2120-2.030, (4) and (5) the State Board of Embalmers and Funeral Directors creates requirements for these death certificates. It is submitted that the State Board has no authority to issue such regulations. Further the embalmer requirements in these sections is in conflict with the statutory provisions that specifically set out what is to be on death certificates without giving any authority for the State Board to add any items. Lastly, as this embalmer information is not on the model forms approved by the states, it requires Missouri forms to be modified from the standard.


20 CSR 2120-2.060 (1)(J) says that an applicant must provide “any other information the board may require.” It is submitted that this is vague, over-broad and potentially highly burdensome and a barrier to entry into the profession without any basis in public safety.

5. Editorial Comments.

20 CSR 2120-2.060(5) contains comments not appropriate for rules and regulations.

6. Test taking

At several spots, for example, 20 CSR 2120-2.060 (10) the applicant is only allowed to take the required examinations after the completion of the apprenticeship. There is no compelling state interest or public safety requirement for requiring this. An applicant should be able to take the tests at any time after their application is
accepted. Of course the license would not be issued until all of the requirements are met, but there is no reason someone should not be allowed to take the tests while they are doing their internship. The current requirement can be a burden on applicants in getting all of the items necessary done within the mandatory time-limit without there being any reason the state needs to require this.

7. Supervision

At several spots, for example, 20 CSR 2120-2.060(15) “supervision” is mandated without that ever being defined. To further complicate the matter, sometimes the phrase “direct supervision” is set out. What do these terms mean? Without making it clear what supervision consists of the rules are unenforceably vague.

8. Cemetery attendance.

We challenge anyone to read 20 CSR 2120-2.060 (17) in its entirety and afterwards be certain what the rules are on when a funeral director needs to be present at a cemetery and when they do not. The regulation is overly long, confusing and seemingly contradictory in spots.

9.D.B.A.

Currently the Board only allows a funeral establishment to have one “Doing Business As” name. There is no state or public need for such a restriction on funeral establishments which does not apply to other businesses. See, 20 CSR 2120-2.070 (13)

10. Cremations

20 CSR 2120-2.071 (1) (21) and (24) contain very vague “definitions” of “cremation boxes” and “urns.” What is the legal difference between a box and an urn? What is “durable?” Without clearer definitions, it is impossible to be certain if you are complying with the law.

Next, 20 CSR 2120-2.071 (22) requires that when shipping, the cremation box be placed in a corrugated cardboard box. Why? What is so special about corrugated cardboard? What is the state interest in using this material?

Lastly 20 CSR 2120-2.071 (18) mandates a physical impossibility as is is not possible to remove ALL residue from the cremation. That is a scientific impossibility.

11. Food and Beverages.

20 CSR 2120-2.090 (10) at one point in time it appears that the intent was to put into the Regulations, a Rule that restricted food and beverage throughout the entire funeral home. For some reason, however, this was put in the Embalming room section of the Regs. As a result, current Missouri Regulations state that you can have coffee (in single service cups) in the embalming room! This is an OSHA violation needless to say. As for banning food and beverage in other areas of the funeral home, a Federal Court has already held that there is no compelling state interest in such a restriction.

12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
20 CSR 2120-2.070 Funeral Establishments

PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.

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

(2) There shall be the following license classifications:

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

(B) Function B establishments shall have authority to cremate dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains.

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

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

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

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.

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

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

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

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

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

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

(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection as provided by sections 333.061 and 333.101, RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.
(11) No one licensed by this board may be employed in any capacity by an unlicensed funeral establishment. Violation of this section will be deemed misconduct in the practice of embalming or funeral directing.

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

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

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

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

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

(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.

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

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

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

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

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

(A) The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.
(B) Any person or friend who assumes responsibility for the disposition of the deceased’s remains if no next of kin assumes such responsibility may authorize to embalm the deceased;
(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;
(D) If the body is required to be buried at public expense, the body shall be disposed of according to the terms of section 194.150, RSMo;
(E) If the Missouri licensed funeral establishment receives no authorization to embalm from any of the persons identified in subsections (21)(A), (B), or (C) of this rule, the Missouri licensed funeral establishment may proceed with embalming if it has attempted to locate a person from whom authorization to embalm may be obtained for at least six (6) hours and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate such a person. However, the Missouri licensed embalmer may proceed to embalm sooner if the condition of the body is such that waiting for six (6) hours would substantially impair the ability to effectively embalm the body or if the deceased died as a result of a communicable disease, was subject to isolation at the time of death; and
(F) If a Missouri licensed embalmer proceeds to embalm a body under the provisions of subsection (21)(E), the Missouri licensed funeral establishment which employs the Missouri licensed embalmer shall not require payment for the embalming unless the funeral arrangements that are subsequently made authorized the embalming.

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

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

(23) Each Function C funeral establishment shall maintain on the Missouri premises the following documents:
(A) General price list;
(B) Preneed contracts which have been cancelled or fulfilled;
(C) Purchase agreements; and
(D) Authorizations to embalm or cremate.

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

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

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

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

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

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

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

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

(27) Each funeral establishment shall maintain a register log, as defined by 20 CSR 2120-1.040(21). The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room, the log shall be kept on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall contain the information required by 20 CSR 2120-1.040(21).
(28) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director’s presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo.

(29) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

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

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


20 CSR 2120-2.070 Funeral Establishments

Purpose: The purpose of this amendment is to update the existing regulation’s terminology, provide additional clarification regarding the chemical disposition process and provide for board discretion to allow a funeral establishment to continue operation at an approved temporary location.

PURPOSE: This rule clarifies establishment license classifications, establishment names, and the documents to be maintained by licensed funeral homes.

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

(2) There shall be the following license classifications:
(A) Function A establishments shall have authority to embalm dead human bodies and to transport dead human bodies to and from the funeral establishment. An establishment licensed only as a Function A establishment is prohibited from the care and preparation of dead human bodies other than by embalming, and shall also be prohibited from making funeral arrangements or embalming arrangements with any unlicensed person, cremating, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies, or selling of funeral merchandise. Each Missouri licensed funeral establishment used solely or partially for embalming shall contain a preparation room that shall be devoted to activities incident or related to the preparation or the embalming, or both, of dead human remains and shall be equipped and maintained as described in 20 CSR 2120-2.090. Each Function A funeral establishment licensed for embalming shall maintain on the premises [in the preparation room] a register log.

(B) Function B establishments shall have authority to cremate through the use of any mechanical or chemical means dead human bodies and to transport dead human bodies to and from the funeral establishment. This establishment shall have a functioning cremation chamber and/or functioning facilities for alkaline hydrolysis chemical process for final disposition of a dead human body, except as otherwise provided by Chapter 333, RSMo, and the rules of the board. An establishment licensed only as a Function B establishment is prohibited from the care and preparation of dead human bodies other than by cremating, and shall also be prohibited from embalming, making funeral arrangements or cremation arrangements with any unlicensed person, conducting visitations and funeral ceremonies, and furnishing any funeral service in connection with the disposition of dead human bodies or selling funeral merchandise. In no event shall any licensee or licensed establishment cremate human remains in the same retort used for cremating non-human remains. Each Missouri licensed funeral establishment which is used solely or partially for cremations shall be equipped and maintained as described in 20 CSR 2120-2.071. This function shall maintain on the premises in the cremation area a cremation log.

(C) Function C establishments shall have authority for the care and preparation of dead human bodies, other than by embalming or cremating, authority to transport dead human bodies to and from the funeral establishment, make funeral arrangements, and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. This function shall contain a separate area for the
care and custody of dead human remains that is secured with a functioning lock and a separate area for confidential conferences to arrange funeral services. The Function C establishment shall have on-site equipment necessary for arranging funeral services including tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. This function shall maintain on the Missouri premises the following documents:

(A) General price list;
(B) Preneed contracts which have been cancelled or fulfilled;
(C) Written Statements of Goods and Services;
(D) Authorizations to embalm or cremate.

(E) Register Log;
(F) Preneed Contracts

(D) Function D establishments shall have authority to conduct visitations and funeral ceremonies only. A Function D license is dependent upon and shall be operated under the supervision and ownership of a Function C establishment. This function shall contain an available restroom and drinking water in the building, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, and officiate stand. Each Function D funeral establishment shall maintain on the premises a register log.

(E) Function E establishment shall have authority to make funeral arrangements and furnish any funeral services in connection with the disposition of dead human bodies or the sale of funeral merchandise. This function shall have a separate area for confidential conferences to arrange funeral services. The Function E establishment shall have on-site tables or desks and chairs for funeral service arrangement conferences and file cabinets for the confidential storage of funeral records. This function shall contain an available restroom and drinking water in the building. The establishment is to be used only for arranging funerals and visitations to be conducted at another facility, no services shall be held at this establishment. This function shall maintain on the premises the following documents:

A) General price list;
B) Preneed contracts which have been cancelled or fulfilled;
(C) Written Statements of Goods and Services;
D) Authorizations to embalm or cremate;
(E) Register Log.

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

(4) A Missouri licensed funeral establishment shall not be used for any other business purpose other than as a Missouri licensed funeral establishment. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and a separate street address.] (4) A Missouri licensed funeral establishment shall not be used for any business purpose other than as a Missouri licensed funeral establishment, except as otherwise permitted by statute or rule.

A. It shall be permissible for a Missouri licensed funeral establishment to be in the same building as another business so long as the Missouri licensed funeral establishment has a separate entrance and separate address.
B. It shall be permissible to engage in the business of being a preneed seller, preneed provider, preneed agent and/or the sale of life insurance at a Missouri licensed funeral establishment so long as all persons involved in such business hold the necessary licenses to engage in such business lawfully.

(5) A Missouri licensed funeral establishment shall be used only for the function for which it is licensed.

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

(7) A funeral establishment application shall indicate the name and license number of the Missouri licensed funeral director-in-charge, as defined by 20 CSR 2120-1.040. When the Missouri licensed funeral director-in-charge changes [for a period of more than thirty (30) days], the new Missouri licensed funeral director-in-charge and the former Missouri licensed funeral director-in-charge, jointly or individually, shall notify the board of the change within [thirty (30)] fifteen (15) days of the date when the change first occurs. Failure to notify the board shall be considered a violation of this rule on the part of each Missouri funeral director licensee and on the part of the Missouri licensed funeral establishment. A change in the Missouri licensed funeral director-in-charge does not require a new Missouri licensed funeral establishment license.

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

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

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

(B) A corporation is considered by law to be a separate person. If a corporation owns a Missouri licensed funeral establishment, it is not necessary to obtain a new establishment license or to file an amended application for an establishment license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed funeral establishment or ceases ownership of a Missouri licensed funeral establishment, a new establishment license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.
(10) The professional business and practice of funeral directing shall be conducted only from a fixed place or establishment that has been licensed by the board except as permitted by section 333.071, RSMo. The Missouri licensed funeral establishment physical facility shall be under the general management and supervision of the Missouri licensed funeral director-in-charge. Every Missouri licensed funeral establishment shall provide and allow access to any member or duly authorized agent of the board for the purpose of inspection, investigation, examination or audit as authorized in Chapters 333 and 436 [as provided by sections 333.061 and 333.101], RSMo. If any representative of the Missouri licensed funeral establishment fails or refuses to provide or allow access, it shall be considered a violation of this rule by the Missouri licensed funeral establishment and by the Missouri licensed funeral director-in-charge of the Missouri licensed funeral establishment. Additionally, if the Missouri licensed funeral establishment representative who fails or refuses to provide or allow access holds any license or registration issued by this board, that person shall be in violation of this rule.

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

(12) Only one (1) Missouri funeral establishment license will be issued by this board for any physical facility that is considered to be a Missouri licensed funeral establishment as defined by statute and rule.

(A) If a Missouri funeral establishment licensed by this board is destroyed by fire or some other disaster or act of God, the board, in its discretion, for a period of not more than six (6) months, may allow the Missouri licensed funeral establishment to continue its operation from another Missouri licensed funeral establishment or from a facility that has not been licensed as a funeral establishment if the facility meets the minimum requirements for the functions outlined in section (2) of this rule. The temporary location is not intended for long-term use, but rather as a means to maintain the business of the Missouri licensed establishment while it actively pursues the steps necessary to re-open its facilities at the licensed location.

(B) If the Missouri licensed funeral establishment has not been able to re-open its facilities at the licensed location within the initial six (6) months, then the Missouri licensed funeral establishment may make a written request to the board for an additional six (6) months to continue to operate from its temporary location which the board shall grant, at its discretion.

(C) If the Missouri licensed funeral establishment is unable to re-open its facilities at its licensed location after the expiration of the second six (6) month extension, then the Missouri licensed funeral establishment may make a written request and make an appearance before the board to present its plan to re-open at the licensed location and show good cause for any additional extension.

(D) Before a Missouri license funeral establishment operates at any location other than its licensed location, that establishment must make a written request to the board that sets forth the reason a temporary location is required, the address of the requested temporary location, and show a legal right to occupy the premises at the temporary location that may include a deed, a rental agreement, a letter from the owner of the temporary location or other similar written documentation. Upon approval of the temporary location, the board shall issue its written notice of approval. The temporary location may not be used by the licensee until it receives that written notice of approval from the board.

(E) When the Missouri licensed funeral establishment is ready to re-open the facilities at the licensed location, it must notify the board, in writing, that it is ready to re-open and the board will conduct an inspection to ensure the facilities at the licensed location comply with all requirements to be operated as a licensed establishment and upon approval will provide written notice to the establishment that it is approved to resume operations at the licensed location. No new application or application fee shall be required.

(F) In order to operate at a temporary location, the Missouri licensed funeral establishment must take all steps necessary to maintain its establishment license in a current and active status.

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

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

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be **maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public** and kept free and clean of litter, dirt, debris, and clutter [or other objects or conditions which present a potential or actual hazard to the health, safety, or welfare of the public].

[(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety, or welfare of the public.]

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

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

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

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

(20) Each Function C or Function D establishment shall contain a restroom, available drinking water, and an area where funeral ceremonies or visitations may be conducted. The establishment shall be equipped with seating for visitations or funeral ceremonies, casket bier, register book stand, officiate stand, flower display stands, and music-producing equipment.

(21)] (16) According to section 333.[121.2(17)]330, RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

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

(B) Any person or friend who assumes responsibility for the disposition of the deceased’s remains if no next of kin assumes such responsibility may authorize to embalm the deceased;
(C) The county coroner or medical examiner pursuant to the provisions of Chapter 58, RSMo may authorize to embalm the deceased;

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

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

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

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

(A) When authorization to embalm is given in writing:

(1). The name of the deceased

(2). The name and signature of the person who is authorizing embalming;

(3). The relationship of that person to the deceased;

(4). The time and date authorization to embalm was given; and

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

(B) Authorization to embalm shall be given in writing if the person authorizing embalming is present in the Missouri licensed funeral establishment or in the physical presence of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment. If verbal authorization to embalm is given, the Missouri licensed funeral establishment shall document:

1. The name of the person who is actually authorizing embalming, if different from the person who is verbally communicating authorization to embalm to the Missouri licensed funeral establishment;

2. The relationship of that person to the deceased;

3. The name of the person who is verbally communicating authorization to embalm and that person’s relationship to the person who is actually authorizing embalming;

4. The time and date authorization to embalm was given; and

5. The name and title of the person receiving authorization to embalm on behalf of the Missouri licensed funeral establishment.

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

(A) General price list;

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

(C) Purchase agreements; and

(D) Authorizations to embalm or cremate.]

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

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

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

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

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

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

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

[27] (20) Each funeral establishment shall maintain a register log [as defined by 20 CSR2120-1.040(21).][The log shall be kept in the preparation or embalming room of the Missouri licensed funeral establishment at all times and in full view for a board inspector. If the funeral establishment does not contain a preparation or embalming room,] [the log shall be kept] on the premises of the licensed funeral establishment and shall be easily accessible and in full view for a board inspector. A register log shall [contain the information required by 20 CSR 2120-1.040(21)]., include the following:

(A) The name of the deceased;
(B) The date and time the dead human body arrived at the funeral establishment;
(C) The date and time the embalming took place, if applicable;
(D) The name and signature of the Missouri licensed embalmer, if applicable;
(E) The name and signature of the Missouri registered apprentice embalmer, if any;
(F) The Missouri licensed embalmer’s license number, if applicable;
(G) The Missouri apprentice embalmer registration number, if any; and
(H) The name of the licensed funeral establishment, or other that was in charge of making the arrangements if from a different location.

[28]) (21) No dead human body shall be buried, disinterred, interred, or cremated within this state or removed from this state, unless the burial, disinterment, interment, cremation, removal, or other authorized disposition, is performed under the direction of a Missouri licensed funeral establishment or Missouri licensed funeral director, unless otherwise authorized by law. If the disinterment does not require legal notification to the county coroner or medical examiner, a funeral director’s presence may not be required. Nothing in this rule shall be interpreted to require the use of a Missouri licensed funeral establishment or director if the person(s) having the right to control the incidents of burial request or determine otherwise, provided that this provision does not exempt any person from licensure as required by Chapter 333, RSMo. Any licensed funeral establishment or funeral director that makes arrangements for an unlicensed person to transport dead human bodies within the state of Missouri, or out of this state, is responsible for the conduct of the unlicensed person.

[29]) (22) A licensee shall be prohibited from knowingly using, placing, or including any false, misleading, deceptive or materially incorrect information, or assisting or enabling any person to provide such information, on a death certificate filed in the state of Missouri.

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

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


20 CSR 2120-3.010 Preneed Seller Registration

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed sellers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules... “for the transaction of its business...”. This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed sellers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed sellers must be made on the forms provided by the board and must be accompanied by the applicable preneed seller registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed sellers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered seller registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept seller registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the registration will be cancelled.

(5) Each person seeking registration as a preneed seller will be required to submit a partial annual report at the time of registration, containing—1) the name and address of the financial institution in Missouri in which it will maintain the trust accounts required under Chapter 436, RSMo and the account numbers of those trust accounts, 2) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of the trust account designated by depository and account number and 3) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of its books and records relating to the sale of preneed contracts and name and address of the person designated by the seller as custodian of those books and records.

(6) The board will acknowledge receipt of each application for registration as a preneed seller if the application is completed properly and is accompanied by the preneed registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed contract sellers will be provided to any person upon request.


Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 3 – Preneed

PROPOSED AMENDMENT

20 CSR 2120-3.010 Preneed Seller License [Registration]

Purpose: The purpose of the amendment is to update terminology and requirements for licensure of preneed sellers as provided in chapter 436.

[PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed sellers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. “for the transaction of its business. . .” This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed sellers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed sellers must be made on the forms provided by the board and must be accompanied by the applicable preneed seller registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed sellers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered seller registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept seller registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the registration will be cancelled.

(5) Each person seeking registration as a preneed seller will be required to submit a partial annual report at the time of registration, containing—1) the name and address of the financial institution in Missouri in which it will maintain the trust accounts required under Chapter 436, RSMo and the account numbers of those trust accounts, 2) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of the trust account designated by depository and account number and 3) a consent authorizing the state board to order an examination and, if necessary, an audit by the staff of the Division of Professional Registration who are not connected with the state board, of its books and records relating to the sale of preneed contracts and name and address of the person designated by the seller as custodian of those books and records.

(6) The board will acknowledge receipt of each application for registration as a preneed seller if the application is completed properly and is accompanied by the preneed registration fee. A registration number will be assigned.
Application forms for registration as preneed contract sellers will be provided to any person upon request.


*Original authority: 333.111.1, RSMo 1965, amended 1981.]

Purpose: This rule outlines the procedures to be used to secure a preneed seller license.

1. Applications for a preneed seller license shall be made on the forms provided by the board and must be accompanied by the applicable fees. At a minimum an applicant shall submit with the application:
   A. Evidence of being an individual resident of Missouri who is eighteen years of age or older, or if a business entity, a Certificate of Good Standing and, if applicable, a current Registration of Fictitious Name, from the Missouri secretary of state;
   B. Evidence if the applicant is a corporation, each officer, director, manager, or controlling shareholder, shall be eligible for licensure if they were applying for licensure as an individual;
   C. The name and address of a custodian of records responsible for maintaining the books and records of the seller relating to preneed contracts;
   D. The name and address of a trustee or, if applicable, the financial institution where any preneed trust or joint accounts will be maintained;
   E. The name and address of each insurance company that may be utilized for insurance funded preneed contracts;
   F. Have established, as grantor, a preneed trust or an agreement to utilize a preneed trust with terms consistent with sections 436.400 to 436.520. A trust shall not be required if the applicant certifies to the board that the seller will only sell insurance-funded or joint account-funded preneed contracts;
   G. The name and address of an individual designated to serve as manager in charge of the seller’s business.
   H. The name(s), addresses(s) and signature(s) of each preneed agent who is authorized to sell, negotiate, or solicit preneed contracts on behalf of their behalf;
   I. The name(s) and address(s) of each preneed provider with whom the licensee will have a contractual agreement to be designated as a preneed provider;
   J. A written consent authorizing the state board to inspect or order an investigation, examination, or audit of the seller's books and records which contain information concerning preneed contracts sold by or on behalf of the seller;
   K. A business license if required by city or county;
   L. A certificate of no tax due from the Missouri Department of Revenue, if applicable; and
   M. A Missouri Highway Patrol fee for each person that is an officer or who has at least a 10% interest in the business.

2. An applicant shall meet the requirements of the board for licensure within ninety (90) days from the date filed with the board office. If the applicant fails to meet the requirements of the board within the required time and still desires to seek licensure, a new application and applicable fees shall be filed with the board.

3. If the manager in charge changes, the seller shall provide written notice to the board within fifteen (15) days of the change.
(4) The seller license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) “doing business as” name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership or name of the Missouri licensed seller changed, a new license shall be obtained.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new seller license. However, a new application for a seller license form shall be filed as an amended application within fifteen (15) day after change of ownership. This form shall be filled out completely with correct, current information.

(B) If a corporation owns a Missouri licensed seller, it is not necessary to obtain a new seller license or to file an amended application for a seller license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed seller or ceases ownership of a Missouri licensed seller, a new seller license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.

AUTHORITY: Original authority: 333.320 RSMo 2009
20 CSR 2120-3.020 Preneed Provider Registration

PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed providers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . “for the transaction of its business. . .” This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed providers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable preneed provider registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed providers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered provider registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept provider registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the provider registration will be cancelled.

(5) Each establishment which is licensed separately by the state board as a funeral establishment must register separately as a preneed provider, if the establishment will perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract. Nothing in this rule will require registration of funeral establishments as preneed providers if the establishment will not perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract.

(6) The board will acknowledge receipt of each application for registration as a preneed provider, if the application is completed properly and is accompanied by the preneed provider registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed providers will be provided to any person upon request.


20 CSR 2120-3.020 Preneed Provider License [Registration]

Purpose: The purpose of the amendment is to update terminology and requirements for licensure of preneed providers as provided in chapter 436.

[PURPOSE: Under Chapter 436, RSMo, the State Board of Embalmers and Funeral Directors is directed to register persons as preneed providers. Under section 333.111.1., RSMo, the State Board of Embalmers and Funeral Directors is directed to promulgate rules. . . “for the transaction of its business. . .” This rule complies with the statutory directive that the board promulgate rules for the transaction of its business in registering persons as preneed providers.

(1) Whenever used in this rule, the word person means any individual, partnership, corporation, cooperative, association or other entity.

(2) Applications for registration as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable preneed provider registration fee.

(3) The board office will contact persons who have submitted applications for registration as preneed providers whenever it appears that a slight change or modification on the form is necessary to accomplish registration. No such change or modification will be made without the consent of the person submitting the application. If telephone contact is impossible, the application form and the tendered provider registration fee will be returned to the applicant with instructions for completing the form properly.

(4) The board office will accept provider registration applications even though certain information is not provided, if the application is accompanied by a statement that the information will be provided as soon as it is known to the applicant. If the information is not provided in a timely fashion, the provider registration will be cancelled.

(5) Each establishment which is licensed separately by the state board as a funeral establishment must register separately as a preneed provider, if the establishment will perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract. Nothing in this rule will require registration of funeral establishments as preneed providers if the establishment will not perform or agree to perform the obligations of, or be designated as, the provider under a preneed contract.

(6) The board will acknowledge receipt of each application for registration as a preneed provider, if the application is completed properly and is accompanied by the preneed provider registration fee. A registration number will be assigned.

(7) Application forms for registration as preneed providers will be provided to any person upon request.
Purpose: This rule outlines the procedures to be used to secure a preneed provider license.

(1) Applications for licensure as preneed providers must be made on the forms provided by the board and must be accompanied by the applicable fees. At a minimum an applicant shall submit with the application:

(A) Evidence, if a business entity, a Certificate of Good Standing and, if applicable, a current Registration of Fictitious Name, from the Missouri secretary of state;

(B) Evidence if applicant is a corporation, each officer, director, manager, or controlling shareholder shall be eligible for licensure if they were applying for licensure as an individual;

(C) The name and address of a custodian of records responsible for maintaining the books and records of the provider relating to preneed contracts;

(D) The name(s) and address(s) of each seller authorized by the provider to sell preneed contracts in which the provider is designated or obligated as the provider;

(E) A written consent authorizing the state board to inspect or order an investigation, examination, or audit of the provider's books and records which contain information concerning preneed contracts sold for or on behalf of a seller or in which the applicant is named as a provider;

(F) A business license if required by city or county;

(G) A certificate of no tax due from the Missouri Department of Revenue, if applicable; and

(H) A Missouri Highway Patrol fee for each person that is an officer or who has at least a 10% interest in the business.

(3) An applicant shall meet the requirements of the board for licensure within ninety (90) days from the date filed with the board office. If the applicant fails to meet the requirements of the board within the required time and still desires to seek licensure, a new application and applicable fees shall be filed with the board.

(4) The provider license issued by the board is effective for a specific name of a person or entity authorized to conduct business in Missouri and may include one (1) “doing business as” name. The license issued by the board shall be displayed in a conspicuous location accessible to the general public at that location. Whenever the ownership or name of the Missouri licensed provider changed, a new license shall be obtained.

(A) If a change of ownership is caused by the elimination of one (1) or more owners, for whatever reason (death, sale of interest, divorce, etc.) without the addition of any new owner(s), it is not necessary to obtain a new provider license. However, a new application for a provider license form shall be filed as an amended application within fifteen (15) day after change of ownership. This form shall be filled out completely with correct, current information.

(B) If a corporation owns a Missouri licensed provider, it is not necessary to obtain a new provider license or to file an amended application for a provider license if the owners of the stock change.

(C) However, as a separate person, if a corporation begins ownership of a Missouri licensed provider or ceases ownership of a Missouri licensed provider, a new provider license shall be obtained regardless of the relationship of the previous or subsequent owner to the corporation.
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Friday, October 06, 2017 2:32 PM
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Comments of The Missouri Funeral Directors and Embalmers Association regarding current Rules pertaining to funeral service

1. The 75% to pass exam issue.

Throughout the current rules, it is stated that an applicant must score at least 75% to pass tests administered by the International Conference. As the Board is aware, the conference no longer gives percentage scores but a number score with some questions weighted more than others. [Example: 20 CSR 2120-2.010 (11)]

This creates a situation where an applicant could theoretically pass 75% of the questions correct on the exam, thereby meeting Missouri law, but still receive a failing grade from the Conference.

2. Oral Exams.

In several places in the Rules [Example: 20 CSR 2120-2.010 (17) and (18)] oral examinations are referenced for embalmers when those have not been done for some time now.

3. Death Certificates.

Death Certificates are regulated by the Department of Health and Senior Services and the State Registrar of Vital Records, yet, at 20 CSR 2120-2.030, (4) and (5) the State Board of Embalmers and Funeral Directors creates requirements for these death certificates. It is submitted that the State Board has no authority to issue such regulations. Further the embalmer requirements in these sections is in conflict with the statutory provisions that specifically set out what is to be on death certificates without giving any authority for the State Board to add any items. Lastly, as this embalmer information is not on the model forms approved by the states, it requires Missouri forms to be modified from the standard.


20 CSR 2120-2.060 (1)(J) says that an applicant must provide “any other information the board may require.” It is submitted that this is vague, over-broad and potentially highly burdensome and a barrier to entry into the profession without any basis in public safety.

5. Editorial Comments.

20 CSR 2120-2.060(5) contains comments not appropriate for rules and regulations.

6. Test taking

At several spots, for example, 20 CSR 2120-2.060 (10) the applicant is only allowed to take the required examinations after the completion of the apprenticeship. There is no compelling state interest or public safety requirement for requiring this. An applicant should be able to take the tests at any time after their application is
accepted. Of course the license would not be issued until all of the requirements are met, but there is no reason someone should not be allowed to take the tests while they are doing their internship. The current requirement can be a burden on applicants in getting all of the items necessary done within the mandatory time-limit without there being any reason the state needs to require this.

7. Supervision

At several spots, for example, 20 CSR 2120-2.060(15) “supervision” is mandated without that ever being defined. To further complicate the matter, sometimes the phrase “direct supervision” is set out. What do these terms mean? Without making it clear what supervision consists of the rules are unenforceably vague.

8. Cemetery attendance.

We challenge anyone to read 20 CSR 2120-2.060 (17) in its entirety and afterwards be certain what the rules are on when a funeral director needs to be present at a cemetery and when they do not. The regulation is overly long, confusing and seemingly contradictory in spots.

9. D.B.A.

Currently the Board only allows a funeral establishment to have one “Doing Business As” name. There is no state or public need for such a restriction on funeral establishments which does not apply to other businesses. See, 20 CSR 2120-2.070 (13)

10. Cremations

20 CSR 2120-2.071 (1) (21) and (24) contain very vague “definitions” of “cremation boxes” and “urns.” What is the legal difference between a box and an urn? What is “durable?” Without clearer definitions, it is impossible to be certain if you are complying with the law.

Next, 20 CSR 2120-2.071 (22) requires that when shipping, the cremation box be placed in a corrugated cardboard box. Why? What is so special about corrugated cardboard? What is the state interest in using this material?

Lastly 20 CSR 2120-2.071 (18) mandates a physical impossibility as is is not possible to remove ALL residue from the cremation. That is a scientific impossibility.

11. Food and Beverages.

20 CSR 2120-2.090 (10) at one point in time it appears that the intent was to put into the Regulations, a Rule that restricted food and beverage throughout the entire funeral home. For some reason, however, this was put in the Embalming room section of the Regs. As a result, current Missouri Regulations state that you can have coffee (in single service cups) in the embalming room! This is an OSHA violation needless to say. As for banning food and beverage in other areas of the funeral home, a Federal Court has already held that there is no compelling state interest in such a restriction.

12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

PURPOSE: This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

(1) Definitions.
   (A) Cremated remains—the bone fragments which remain after the cremation process is completed.
   (B) Cremation—the technical heating process which reduces remains to bone fragments through heat and evaporation; a final disposition of dead human remains.
   (C) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.
   (D) Cremation chamber—the total functioning mechanical unit for the actual cremation process.
   (E) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.
   (F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.
   (G) Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.
   (H) Short-term storage—storage for a period of thirty (30) days or fewer.
   (I) Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

(2) No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.

(3) Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:
   (A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and
   (B) Information regarding the cremation which shall include:
      1. The full name of the deceased;
      2. The last place of residence of the deceased;
      3. The place of death of the deceased;
      4. The place of birth of the deceased;
      5. The date and place of the funeral;
      6. The name of the Missouri licensed funeral director, other than a limited license funeral director, with whom the arrangements were made;
      7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
      8. The date and time when cremation was begun;
      9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and
      10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

(4) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:
   (A) The name of the deceased to be cremated;
   (B) The name of the Missouri licensed establishment where the body is cremated;
   (C) The date and time the body arrived at the crematory.
(D) The date and time the cremation took place;
(E) The name and signature of the Missouri licensed funeral director or Missouri licensed embalmer supervising the cremation;
(F) The supervising Missouri licensed funeral director’s license number or the supervising Missouri licensed embalmer’s license number; and
(G) The name of the Missouri licensed funeral establishment or other that was in charge of making the arrangements if from a different location.

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

(6) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

(7) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.

(8) The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and protect the surrounding structure. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, city, county, and municipal statutes, rules and regulations.

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

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

(9) The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.
(10) No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law.

(11) When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by the funeral establishment.

(12) Each body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease.

(13) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

(14) No body shall be cremated with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(15) No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

(16) Except for metal containers or caskets, each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated. If a metal container or casket is used, the purchaser shall be informed by the funeral director at the time the arrangements are made of the disposition of the metal container or casket after cremation, if the container or casket is not to be placed in the retort. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.

(17) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(18) Following the completion of the cremation process, all residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(19) If the cremated remains do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

(20) If the cremated remains will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

(21) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

(22) If the cremated remains are to be shipped, the cremation box shall be packed securely in a corrugated cardboard box which is securely closed with tape acceptable to the shipper.
(23) Cremated remains shall be shipped only by a method which has an internal tracing system available
and which provides a receipt signed by the person accepting delivery.

(24) Each urn into which cremated remains are placed shall be made of a durable material which shall
enclose the cremated remains entirely.

(25) Each Missouri licensed funeral establishment which comes into possession of cremated remains,
whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall
retain the cremated remains until they are delivered, placed, or shipped pursuant to the instructions of the
person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri
licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri
licensed funeral establishment has obtained written permission for other disposition contingent upon the
Missouri licensed funeral establishment attempting to dispose of the cremated remains according to
instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and
provided that other disposition shall not occur prior to thirty (30) days after cremation.

(26) Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which
contains a crematory area from establishing more restrictive standards for its own operation.

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

AUTHORITY: sections 333.061 and 333.121, RSMo Supp. 2008 and sections 333.111 and 333.145,
RSMo 2000.* This rule originally filed as 4 CSR 120-2.071. Original rule filed May 29, 1987, effective

# PROPOSED AMENDMENT

## 20 CSR 2120-2.071 Funeral Establishments Containing a Crematory Area

**Purpose:** The purpose of this amendment is to update the existing regulation’s terminology and provide additional clarification regarding the chemical disposition process. The amendment also removes the definitions, which were moved to a general rule containing other definitions.

**PURPOSE:** This rule outlines the requirements and procedures for operating a crematory establishment in Missouri.

1. **Definitions.**
   - (A) Cremated remains—the bone fragments which remain after the cremation process is completed.
   - (B) Cremation—the technical heating process which reduces remains to bone fragments through heat and evaporation; a final disposition of dead human remains.
   - (C) Cremation box—a container into which cremated remains are placed for transportation or short-term storage.
   - (D) Cremation chamber—the total functioning mechanical unit for the actual cremation process.
   - (E) Cremation container—the case in which the human remains are delivered to the crematory area for cremation.
   - (F) Crematory area—the building or portion of a building which houses the cremation chamber and the holding facility.
   - (G) Holding facility—the area within the crematory area in which dead bodies are placed while awaiting cremation.
   - (H) Short-term storage—storage for a period of thirty (30) days or fewer.
   - (I) Urn—the receptacle into which the cremated remains are placed for other than transportation or short-term storage.

2. **No body shall be cremated in this state except in a funeral establishment licensed by the board as a Function B establishment.**

3. **Each Missouri licensed funeral establishment that contains a crematory area shall maintain permanent records which shall include:**
   - (A) A written authorization for cremation executed prior to cremation by the person entitled to custody or control of the body which shows the time and date when authorization for cremation was given; and
   - (B) Information regarding the cremation which shall include:
     1. The full name of the deceased;
     2. The last place of residence of the deceased;
     3. The place of death of the deceased;
     4. The place of birth of the deceased;
     5. The date and place of the funeral;
     6. The name of the Missouri licensed funeral director, other than a limited license funeral director, with whom the arrangements were made;
     7. The name of the person(s) who made the arrangements with the Missouri licensed funeral director and the relationship to the deceased;
     8. The date and time when cremation was begun;
9. The name and address of the person to whom the cremated remains were released or the location where the cremated remains were placed; and

10. If the cremated remains were delivered or placed other than by an employee of the Missouri licensed funeral establishment, the name of the person who made the delivery or placement or the name of the business by which the cremated remains were shipped along with the receipt number.

11. If cremation is to be performed by chemical disposition, the written authorization shall also include;
   (A). Specific consent for cremation by chemical process with an explanation of the process to be utilized; and
   (B). Disclosures on the disposition of personal property including, but not limited to, jewelry, medical devices and any other items that might remain after the chemical disposition process is complete.

([4]3) Cremation log—a written record or log kept in the cremation area available at all times in full view, which will include the following:
   (A) The name of the deceased to be cremated;
   (B) The name of the Missouri licensed establishment where the body is cremated;
   (C) The date and time the body arrived at the crematory;
   (D) The date and time the cremation took place;
   (E) The name and signature of the Missouri licensed funeral director [or Missouri licensed embalmer] supervising the cremation;
   (F) The supervising Missouri licensed funeral director’s license number [or the supervising Missouri licensed embalmer’s license number; and]
   (G) The name of the Missouri licensed funeral establishment or other that was in charge of making the arrangements if from a different location [.]; and
   (H) The type of cremation performed.

([5]4) All records required to be maintained by this rule shall be maintained on the premises of the Missouri licensed funeral establishment for two (2) years from the date the record was created. All documents required to be maintained by this rule may be maintained electronically, but all documents shall be stored in such a manner to allow access by the board, or its assignee, and so the board, or its assignee, may easily and timely obtain hard copies or electronic copies in a format easily readable by the board, or its assignee.

([6]5) If the deceased gave written authorization to cremate and did not revoke the authorization, that authorization shall satisfy the requirement for authorization to cremate. If the deceased did not give written authorization to cremate, the next of kin of the deceased or the county coroner or medical examiner pursuant to Chapter 58, RSMo, may give authorization to cremate. Authorization to cremate given prior to the death may be in any written document, including a preneed contract. The next of kin, for purposes of this rule, shall be as defined in section 194.119.2, RSMo.

([7]6) If the Missouri licensed funeral establishment receives no authorization for cremation from any of the persons identified in section (6) of this rule, the Missouri licensed funeral establishment may proceed with cremation if it has attempted to locate a person from whom authorization to cremate may be obtained for at least ten (10) days and it has a written statement from city, county, or state law enforcement officials that they have assisted the Missouri licensed funeral establishment in attempting to locate a person from whom authorization for cremation could be obtained but have been unable to locate such a person. However, the Missouri licensed funeral establishment may proceed with cremation prior to the elapse of twenty-four (24) hours if the deceased died as a result of a communicable disease, was subject to isolation at the time of death, and has not been properly embalmed in accordance with 19 CSR 20-24.010.
The cremation chamber shall be completely functioning at all times and shall be constructed specially to withstand high temperatures and/or chemicals used in the cremation and to protect the surrounding structure. A Function B establishment shall not be in violation of this rule if the cremation chamber is completely restored to functioning capacity within one hundred twenty (120) days from the date the cremation chamber ceases to be in compliance with this section. However, if there are extenuating circumstances and the cremation chamber could not be repaired, documentation of such shall be provided to the board for review and approval. Cremation chambers and processes shall be maintained in proper working order and in compliance with all applicable Missouri Department of Health and Senior Services statutes, rules and regulations, Missouri Department of Natural Resources, statutes, rules and regulations, and all other applicable federal, state, city, county, and municipal statutes, rules and regulations.

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

(B) A Function B establishment that has a nonfunctioning cremation chamber may arrange for cremation at another licensed establishment, if the use of an alternate establishment for purposes of cremation is disclosed to the person making the arrangements on the cremation authorization form and the type of cremation performed is as authorized in the written authorization to cremate.

1. Cremation areas shall contain only the articles, instruments, and items that are necessary for the preparation and cremation of dead human bodies. For purposes of this section, the cremation area shall include the portion of a building which houses the cremation chamber and includes the room where a cremation chamber is located. This paragraph (8) (B) 1 shall not apply to establishments containing retorts or cremation areas for the cremation of non-human remains prior to April 1, 2008, provided that such establishment shall be prohibited from cremating human remains at the same time or in the same retort as non-human remains.

2. Any establishment containing an area for the cremation of non-human remains prior to April 1, 2008, shall be required to comply with this rule if a change of ownership is caused by the addition or replacement of one (1) or more owners or a new corporation begins ownership of the establishment. This paragraph (8) (B) 2 shall not apply if only the owners of the stock of a corporation changes.

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

9. The crematory area shall include a work center area equipped with forced air ventilation adequate to protect the health and safety of the operator and any other person(s) present.

10. No person shall be permitted in the crematory area while any dead human body is in the crematory area awaiting cremation or being cremated or while the cremation remains are being removed from the cremation chamber except the Missouri licensed funeral director, the Missouri licensed embalmer, employees of the Missouri licensed funeral establishment in which the body is being cremated, members of the family of the deceased, persons authorized by the members of the family of the deceased, or any other person authorized by law.

11. When there is no Missouri licensed funeral establishment employee in the crematory area, the crematory area shall be secure from entry by persons other than Missouri licensed funeral establishment employees or a Missouri licensed embalmer authorized by the funeral establishment.
(12) Each body delivered to the crematory, if not already in a cremation container, plastic pouch, cardboard cremation container, casket made of wood or wood product or metal, shall be placed in such a pouch, container or casket. If a metal container or casket is used, the person making the arrangements shall be informed by the Missouri licensed funeral director with whom the arrangements are made of the disposition of the metal container or casket after cremation, if not placed in the retort. The cremation container shall be composed of a combustible, nonexplosive, opaque material which is adequate to assure protection to the health and safety of any person in the crematory area. The casket or container shall be leak resistant if the body enclosed is not embalmed or if death was caused by a contagious disease. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made, pursuant to chapter 193.

(13) The Missouri licensed funeral director with whom the arrangements are made shall make inquiry to determine the presence or existence of any body prosthesis, bridgework or similar items.

(14) No body shall be cremated, except for cremation by chemical disposition, with a pacemaker in place. The Missouri licensed funeral director with whom the arrangements are made shall take all steps necessary to ensure that any pacemakers are removed prior to cremation.

(15) No body shall be cremated until after a completed death certificate has been filed with the local registrar as required by section 193.175, RSMo.

(16) Except for metal containers or caskets, each cremation container or casket into which a body is placed shall be placed into the cremation chamber with the body and be cremated. If a metal container or casket is used, the purchaser shall be informed by the funeral director at the time the arrangements are made of the disposition of the metal container or casket after cremation, if the container or casket is not to be placed in the retort. Each cremation box or urn into which the cremated remains are placed after removal from the cremation chamber shall be labeled clearly with the full name of the deceased and the name of the Missouri licensed funeral establishment with whom the arrangements were made.

(14) The remains of only one (1) body shall be in the cremation chamber at one (1) time unless simultaneous cremation has been authorized in writing by the person(s) entitled to custody or control of each body.

(15) Following the completion of the cremation process, all residual of the cremation process including the cremated remains and any other matter shall be thoroughly removed from the cremation chamber prior to placing another body in the cremation chamber.

(16) If the cremated remains do not fill the interior of the cremation box adequately, the extra space may be filled with shredded paper or clean absorbent cotton.

(17) If the cremated remains will not fit within the receptacle designated in the arrangements, the remainder shall be placed in a separate receptacle or, if written permission is obtained from the person entitled to custody or control of the body, disposed of in some other manner.

(18) The cremation box shall be composed of rigid materials which shall be sealed in order to prevent the leakage of cremated remains or the entry of foreign objects.

(19) If the cremated remains are to be shipped, the cremation box shall be packed securely in a sturdy shipping container such as a plastic or corrugated cardboard box which is securely [closed] sealed with adhesive seal [tape] acceptable to the shipper.

(20) Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.
Each urn into which cremated remains are placed by a licensee or funeral establishment shall be made of a durable material which shall enclose the cremated remains entirely.

Each Missouri licensed funeral establishment which comes into possession of cremated remains, whether or not it is the Missouri licensed funeral establishment at which the cremation occurred, shall retain the cremated remains until they are delivered, placed, or shipped pursuant to the instructions of the person(s) entitled to custody or control of the body. However, nothing in this rule shall prohibit a Missouri licensed funeral establishment from disposing of cremated remains in another fashion if the Missouri licensed funeral establishment has obtained written permission for other disposition contingent upon the Missouri licensed funeral establishment attempting to dispose of the cremated remains according to instructions but being unable to do so through no fault of the Missouri licensed funeral establishment and provided that other disposition shall not occur prior to thirty (30) days after cremation. Any Missouri licensed funeral establishment that comes into possession of unclaimed cremated remains may also dispose of these remains pursuant to chapter 194.

Nothing in this rule shall be construed to prohibit a Missouri licensed funeral establishment which contains a crematory area from establishing more restrictive standards for its own operation.

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


Comments of The Missouri Funeral Directors and Embalmers Association regarding current Rules pertaining to funeral service

1. The 75% to pass exam issue.

Throughout the current rules, it is stated that an applicant must score at least 75% to pass tests administered by the International Conference. As the Board is aware, the conference no longer gives percentage scores but a number score with some questions weighted more than others. [Example: 20 CSR 2120-2.010 (11)]

This creates a situation where an applicant could theoretically pass 75% of the questions correct on the exam, thereby meeting Missouri law, but still receive a failing grade from the Conference.

2. Oral Exams.

In several places in the Rules [Example: 20 CSR 2120-2.010 (17) and (18)] oral examinations are referenced for embalmers when those have not been done for some time now.

3. Death Certificates.

Death Certificates are regulated by the Department of Health and Senior Services and the State Registrar of Vital Records, yet at 20 CSR 2120-2.030, (4) and (5) the State Board of Embalmers and Funeral Directors creates requirements for these death certificates. It is submitted that the State Board has no authority to issue such regulations. Further the embalmer requirements in these sections is in conflict with the statutory provisions that specifically set out what is to be on death certificates without giving any authority for the State Board to add any items. Lastly, as this embalmer information is not on the model forms approved by the states, it requires Missouri forms to be modified from the standard.


20 CSR 2120-2.060 (1)(J) says that an applicant must provide “any other information the board may require.” It is submitted that this is vague, over-broad and potentially highly burdensome and a barrier to entry into the profession without any basis in public safety.

5. Editorial Comments.

20 CSR 2120-2.060(5) contains comments not appropriate for rules and regulations.

6. Test taking

At several spots, for example, 20 CSR 2120-2.060 (10) the applicant is only allowed to take the required examinations after the completion of the apprenticeship. There is no compelling state interest or public safety requirement for requiring this. An applicant should be able to take the tests at any time after their application is
accepted. Of course the license would not be issued until all of the requirements are met, but there is no reason someone should not be allowed to take the tests while they are doing their internship. The current requirement can be a burden on applicants in getting all of the items necessary done within the mandatory time-limit without there being any reason the state needs to require this.

7. Supervision

At several spots, for example, 20 CSR 2120-2.060(15) "supervision" is mandated without that ever being defined. To further complicate the matter, sometimes the phrase "direct supervision" is set out. What do these terms mean? Without making it clear what supervision consists of the rules are unenforceably vague.

8. Cemetery attendance.

We challenge anyone to read 20 CSR 2120-2.060 (17) in its entirety and afterwards be certain what the rules are on when a funeral director needs to be present at a cemetery and when they do not. The regulation is overly long, confusing and seemingly contradictory in spots.

9. D.B.A.

Currently the Board only allows a funeral establishment to have one “Doing Business As” name. There is no state or public need for such a restriction on funeral establishments which does not apply to other businesses. See, 20 CSR 2120-2.070 (13)

10. Cremations

20 CSR 2120-2.071 (1) (21) and (24) contain very vague “definitions” of “cremation boxes” and “urns.” What is the legal difference between a box and an urn? What is “durable?” Without clearer definitions, it is impossible to be certain if you are complying with the law.

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Lastly 20 CSR 2120-2.071 (18) mandates a physical impossibility as is is not possible to remove ALL residue from the cremation. That is a scientific impossibility.

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12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
20 CSR 2120-2.090 Preparation Rooms/Embalming Room

PURPOSE: This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.

(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.

(3) Floors, Walls and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. Floor drains shall be provided where the floor is to be subjected to cleaning by flooding. All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.

(4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services rules and regulations, Missouri Department of Natural Resources rules and regulations, and all other applicable county, city, municipal and state rules and regulations relating to plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.

(5) Sewage and Liquid Waste Disposal.
   (A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Department of Health and Senior Services.
   (B) The following aspirators are approved for preparation rooms:
      1. Electric aspirators;
      2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker approved by the American Society of Sanitary Engineering or by the Uniform Plumbing Code and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table; and
      3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the Uniform Plumbing Code, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the Uniform Plumbing Code.

(6) Solid Waste Disposal.
   (A) Refuse, bandages, cotton and other solid waste materials shall be kept in leakproof, nonabsorbent containers which shall be covered with tight-fitting lids prior to disposal.
   (B) All waste materials, refuse, and used bandage and cotton shall be destroyed by reducing to ashes through incineration or shall be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.

(7) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).

(8) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.
(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities shall exist for the proper disinfection of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments shall be maintained. At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and

(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

(10) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.

(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction shall provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.

(11) A separate wash sink (separate from slop drain sink) shall be present or in close proximity to the preparation room for a personal hand wash facility for Missouri licensed embalmers and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.

(12) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

(13) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

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


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

PROPOSED AMENDMENT

20 CSR 2120-2.090 Preparation Rooms/Embalming Room

Purpose: The purpose of the amendment is to modify the current rule's requirements governing the standards required of funeral establishment preparation rooms.

PURPOSE: This rule outlines the laws and rules governing the standards required of funeral establishment preparation rooms.

(1) Whenever used in this rule, the phrase preparation room refers to that room in a Missouri licensed funeral establishment where dead human bodies are embalmed.
(2) The following requirements for the maintenance and cleanliness of preparation rooms apply at all times, regardless of whether a dead human body is being embalmed or not.
(3) Floors, Walls and Ceilings. All preparation room floor surfaces shall be smooth, nonabsorbent materials and so constructed as to be kept clean easily. [Floor drains shall be provided where the floor is to be subjected to cleaning by flooding.] All walls and ceilings shall be easily cleanable and light colored, and shall be kept and maintained in good repair. All walls shall have washable surfaces.
(4) Each Missouri licensed establishment shall comply with Missouri Department of Health and Senior Services rules and regulations, Missouri Department of Natural Resources rules and regulations, and all other applicable county, city, municipal and state rules and regulations relating to containment backflow prevention devices, plumbing, sewage and liquid waste, solid waste disposal and disposal of body parts.
(5) Sewage and Liquid Waste Disposal.
(A) All sewage and water-carried wastes from the entire Missouri licensed funeral establishment, including the preparation room, shall be disposed of in a public sewage system or an approved disposal system which is constructed, operated and maintained in conformance with the minimum standards of the Missouri Department of Health and Senior Services and Missouri Department of Natural Resources.
(B) The following aspirators are approved for preparation rooms:
1. Electric aspirators;
2. Water-operated aspirators. All water-operated aspirators shall be protected from back siphonage by the minimum of an atmospheric vacuum breaker that is installed a minimum of six (6) inches above the highest point of the embalming table and is approved by the American Society of Sanitary Engineering (ASSE) or by the Uniform Plumbing Code. [and installed a minimum of twelve inches (12") above the maximum possible height of the embalming table]; and
3. Water-controlled unit. All water-controlled units shall be installed and maintained according to the Uniform Plumbing Code, and properly protected from back siphonage with a backflow prevention device approved by the American Society of Sanitary Engineering or the Uniform Plumbing Code.
(6) Solid Waste Disposal.
[(A)] All waste materials [R] refuse, bandages, cotton and other solid waste materials shall be kept in leakproof, nonabsorbent containers which shall be covered with tight-fitting lids [prior to disposal.
(B) All waste materials, refuse, and used bandage and cotton shall be destroyed by reducing to ashes through incineration or shall be sterilized and buried. Sterilization may be accomplished by soaking for thirty (30) minutes in a solution of five percent (5%) formaldehyde, one (1) pint of formalin to seven (7) pints of water.]
(7) Disposal of Body Parts. Human body parts not buried within the casket shall be disposed of by incineration in a commercial or industrial-type incinerator or buried to a depth which will insure a minimum of three feet (3') of compacted earth cover (overlay).
(8) A mechanical exhaust system is required. Care shall be taken to prevent the discharge of exhaust air into an area where odors may create nuisance problems.

(9) All preparation rooms and all articles stored in them shall be kept and maintained in a clean and sanitary condition. All embalming tables, hoppers, sinks, receptacles, instruments and other appliances used in embalming or other preparation of dead human bodies shall be so constructed that they can be kept and maintained in a clean and sanitary condition. The following minimum standards shall apply:

(A) An eye wash kit (bank) or suitable facilities for quick drenching or flushing of the eyes shall be provided within the area for immediate emergency use;

(B) Facilities shall exist for the proper disinfection of embalming instruments and the embalming table;

(C) Facilities for the proper storage of embalming instruments shall be maintained. At a minimum, a chest or cabinet shall be used for the storage of embalming instruments;

(D) All types of blocks used in positioning a dead human body on an embalming table shall be made of nonabsorbent material. All wooden blocks shall be sealed and painted with enamel; and

(E) When not in use, embalming tables shall be cleaned, disinfected and covered with a sheet.

(10) Food and Beverages.

(A) There may be no direct opening between the preparation room and any room where food and beverages are prepared or served.

(B) [The Department of Health and Senior Services sanitation laws and rules governing food sanitation apply to the operation, construction and sanitation of food service facilities, where provided for the comfort and convenience of a funeral party; provided, however, that coffee service utilizing single-service cups and spoons and a coffeemaker of easily cleanable construction shall be deemed acceptable where this service is the only food service offered.

(C) A Missouri licensed funeral home providing coffee service utilizing single-service items and coffeemakers of easily cleanable construction shall provide a water supply faucet at a suitable sink of easily cleanable construction for the filling and cleaning of this equipment in an area separate from the preparation room and restrooms.]

(11) A separate wash sink (separate from slop drain sink) shall be present or in close proximity to the preparation room for a personal hand wash facility [for Missouri licensed embalmers] and the disinfecting of embalming equipment. If the wash sink is not present in the preparation room, it shall be in a location close to the preparation room which is not accessible to the public and it shall be at a distance of no further than ten feet (10') from the door of the preparation room.

(12) Preparation rooms shall contain only the articles, instruments, and items that are necessary for the preparation, embalming, and final disposition of dead human bodies.

(13) Preparation rooms shall be secured with a functional lock so as to prevent entrance by unauthorized persons.

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


Sebastian, Sandy

From: embalm@pr.mo.gov
Sent: Friday, September 01, 2017 12:09 PM
To: Embalmers, PR; Sebastian, Sandy
Subject: 2017 Rule Review 9/1/2017

Date Received: 9/1/2017 12:09:16 PM
Rule: 20 CSR 2120 2130 Final Disposition as Defined in Chapter 193
Comments Filed on Behalf of: Other
Name: McCombs Funeral Home
Comments: My comments are addressing signatures on cremation authorizations and death certificates in cremation situations. I'd like to see the Board take steps in simplifying the wording in this matter. It only makes sense and due diligence for these documents to have the same signatures on both. However, there are funeral directors that don't fully comprehend this matter. Please simplify the wording and state the signatures shall be of the same physician, coroner, etc. Also, consider a viable alternative if that individual is unavailable.
Email Address: jameydockins@hotmail.com
Address: 640 W Independence, Jackson, MO 63755
License #: 6545
20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193

PURPOSE: This rule explains that the use of the term “final disposition” in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with the definition of the term in Chapter 193, RSMo.

(1) For purposes of Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and sections 436.400 to 436.520, RSMo, shall be consistent with its use in Chapter 193, RSMo.


20 CSR 2120-2.130 Final Disposition as Defined in Chapter 193

Purpose: The purpose of the amendment is to modify the existing language to facilitate additional sections of statute that may be effective at a later date.

PURPOSE: This rule explains that the use of the term “final disposition” in Chapter 333, RSMo, and relevant sections of Chapter 436[.400 to 436.520], RSMo, relating to preneed, shall be consistent with the definition of the term in Chapter 193, RSMo.

(1) For purposes of Chapter 333, RSMo, and relevant sections of Chapter 436[.400 to 436.520], RSMo, relating to preneed, final disposition shall be defined in accordance with the definition contained in section 193.015(3), RSMo.

(2) Use of the term final disposition in Chapter 333, RSMo, and relevant sections of Chapter 436[.400 to 436.520], RSMo, relating to preneed, shall be consistent with its use in Chapter 193, RSMo.


Comments of The Missouri Funeral Directors and Embalmers Association regarding current Rules pertaining to funeral service

1. The 75% to pass exam issue.

Throughout the current rules, it is stated that an applicant must score at least 75% to pass tests administered by the International Conference. As the Board is aware, the conference no longer gives percentage scores but a number score with some questions weighted more than others. [Example: 20 CSR 2120-2.010 (11)]

This creates a situation where an applicant could theoretically pass 75% of the questions correct on the exam, thereby meeting Missouri law, but still receive a failing grade from the Conference.

2. Oral Exams.

In several places in the Rules [Example: 20 CSR 2120-2.010 (17) and (18)] oral examinations are referenced for embalmers when those have not been done for some time now.

3. Death Certificates.

Death Certificates are regulated by the Department of Health and Senior Services and the State Registrar of Vital Records, yet, at 20 CSR 2120-2.030, (4) and (5) the State Board of Embalmers and Funeral Directors creates requirements for these death certificates. It is submitted that the State Board has no authority to issue such regulations. Further the embalmer requirements in these sections is in conflict with the statutory provisions that specifically set out what is to be on death certificates without giving any authority for the State Board to add any items. Lastly, as this embalmer information is not on the model forms approved by the states, it requires Missouri forms to be modified from the standard.


20 CSR 2120-2.060 (1)(J) says that an applicant must provide “any other information the board may require.” It is submitted that this is vague, over-broad and potentially highly burdensome and a barrier to entry into the profession without any basis in public safety.

5. Editorial Comments.

20 CSR 2120-2.060(5) contains comments not appropriate for rules and regulations.

6. Test taking

At several spots, for example, 20 CSR 2120-2.060 (10) the applicant is only allowed to take the required examinations after the completion of the apprenticeship. There is no compelling state interest or public safety requirement for requiring this. An applicant should be able to take the tests at any time after their application is
accepted. Of course the license would not be issued until all of the requirements are met, but there is no reason someone should not be allowed to take the tests while they are doing their internship. The current requirement can be a burden on applicants in getting all of the items necessary done within the mandatory time-limit without there being any reason the state needs to require this.

7. Supervision

At several spots, for example, 20 CSR 2120-2.060(15) “supervision” is mandated without that ever being defined. To further complicate the matter, sometimes the phrase “direct supervision” is set out. What do these terms mean? Without making it clear what supervision consists of the rules are unenforceably vague.

8. Cemetery attendance.

We challenge anyone to read 20 CSR 2120-2.060 (17) in its entirety and afterwards be certain what the rules are on when a funeral director needs to be present at a cemetery and when they do not. The regulation is overly long, confusing and seemingly contradictory in spots.

9. D.B.A.

Currently the Board only allows a funeral establishment to have one “Doing Business As” name. There is no state or public need for such a restriction on funeral establishments which does not apply to other businesses. See, 20 CSR 2120-2.070 (13)

10. Cremations

20 CSR 2120-2.071 (1) (21) and (24) contain very vague “definitions” of “cremation boxes” and “urns.” What is the legal difference between a box and an urn? What is “durable?” Without clearer definitions, it is impossible to be certain if you are complying with the law.

Next, 20 CSR 2120-2.071 (22) requires that when shipping, the cremation box be placed in a corrugated cardboard box. Why? What is so special about corrugated cardboard? What is the state interest in using this material?

Lastly 20 CSR 2120-2.071 (18) mandates a physical impossibility as is is not possible to remove ALL residue from the cremation. That is a scientific impossibility.

11. Food and Beverages.

20 CSR 2120-2.090 (10) at one point in time it appears that the intent was to put into the Regulations, a Rule that restricted food and beverage throughout the entire funeral home. For some reason, however, this was put in the Embalming room section of the Regs. As a result, current Missouri Regulations state that you can have coffee (in single service cups) in the embalming room! This is an OSHA violation needless to say. As for banning food and beverage in other areas of the funeral home, a Federal Court has already held that there is no compelling state interest in such a restriction.

12. Preneed "handbook"

The last item is something not in the CSR. The so-called "Examiners Handbook" and procedures that the Board has been using are unlawful Rules promulgated by the Board. If the board wants those requirements, it should go through the required regulatory or statutory approval process.
Dear Sandy,

As the staff and board begin to contemplate the review of rules and regulations impacting the funeral profession, I'd like to make some broad comments that may or may not be helpful for the process.

To my way of thinking, the purpose of rules and regulations are to protect the consumer and provide a framework for ensuring that basic legal standards are applied to business practices. The statutes enacted by the Missouri General Assembly are adequate in most cases, and of course it is not within the board or staff's purview to make changes to the law. Therefore the task revolves around interpreting the law in a way that makes sense, with appropriate rules and regulations, that protect consumers but also reduce confusion for practitioners, all with a minimum of red tape.

Rather than address any specific rule or regulation, my comments here are twofold. First, I'd like to see the board consider rolling back any rule or regulation that has not been officially adopted and promulgated via established legal procedures, if such exist. Second, rules and regulations that focus on minutiae rather than on actual harm to a consumer should be carefully considered as to whether they are truly needed. Continually asking the question, “But who was harmed?” helps focus the attention of regulatory efforts on making sure that consumers are protected without unduly burdening practitioners in their business practices.

For me, an overarching purpose of government is to protect citizens from each other, to provide a means for enforcing contracts between parties, and to ensure that wrongdoers are punished. To the extent that rules and regulations do those three things I think most would agree that our state government and regulatory board are doing right by the consumers of the state. An additional function of good rules and regulations would be to clarify or explain the statute in a way that helps avoid confusion as to how the statute is to be interpreted, implemented, or followed. When rules and regulations do not meet those basic needs, then perhaps it’s time to rethink those particular directives or rework them to be more effective at providing consumer protection.

Good luck with the review process and I’m interested to see what you come up with.

All my best,
Brad

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