The meeting of the State Board of Embalmers and Funeral Directors was called to order on December 13, 2017 by Kenneth McGhee, chairman at 8:36 a.m.

Roll Call
Board Members Present
Kenneth McGhee, Chairman
Gary Fraker, Vice Chairman (by phone) – Attended intermittently on the 13th (motions reflect presence) and was absent on the 14th
Jerald Dickey, Secretary
Scott Meierhoff, Member
James Reinhard, Member

Board Members Absent
Vacant, Public Member

Staff Present
Sandy Sebastian, Executive Director
Lori Hayes, Inspector
Sarah Ledgerwood, Chief Division Counsel
Diana Carter, Board Counsel, Brydon, Swearengen and England

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 James Reinhard to amend the open agenda to include the letter from Don Lakin regarding legal counsel representation and Bill Stalter regarding his proposed scope of financial examinations. Sarah advised that it would be better practice to add the items to the next open agenda of the board to ensure compliance with the Sunshine Law and allow notice to any members of the public that might be interested. James Reinhard stated he would withdraw his motion. Scott Meierhoff asked that the items be placed on a future agenda. James Reinhard suggested the board have a meeting before the end of 2017 to discuss regulations and the scope of the financial examinations and to have the discussion on the scope prior to the regulations. A motion was made by Scott Meierhoff and seconded by James Reinhard to set the date for a special meeting to review the scope of the financial examinations before the board adjourned. Motion carried with Jerald Dickey, Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.

Move to Closed
A motion was made by Scott Meierhoff and seconded by James Reinhard to move into closed session pursuant to #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with Jerald Dickey, Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.
A motion was made by James Reinhard and seconded by Scott Meierhoffer to move into closed session pursuant to #3 and 6 of the attached motions to close. Motion carried with Jerald Dickey, Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.

Roll Call – Return to Open
Kenneth McGhee performed roll call. Present were Kenneth McGhee, Jerald Dickey, Scott Meierhoffer and James Reinhard. Gary Fraker was not present.

Presentation of Plaques to Past Member/s Recognizing Prior Service
Kenneth McGhee presented Scott Meierhoffer with a plaque recognizing his service to the board. The remainder of the board also extended congratulations.

Approval of Open Minutes
A motion was made by James Reinhard and seconded by Jerald Dickey to approve the October 18 2017 minutes. Motion carried with Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

Executive Director Report
Financial Report
Sandy reported on the financial statement for month ending October 31, 2017, which noted that the board’s fund was currently $3,107,358.19 and that revenue received in the fiscal year totaled $434,475 with expenses of $35,799.62 and fund transfers in the amount of $183,916.44. She stated that the projection column was pending completion by the division at this time.

Licensee Reports (new, disciplined, closed/ceased)
Sandy stated that the licensee reports for dates October 11, 2017 and December 5, 2017 were included as reference for the board.

Renewal Update
Sandy shared with the board that as of November 30, 2017 that out of the total PNA/PFD licensees renewing, 1142 had done so with 166 of those renewing online. She shared that there were 683 funeral establishments renewing by the end of December, 2017 and that as of December 8, 2017 441 licensees had renewed, 332 online.


Staffing Update
Sandy noted that in the board’s materials as informational only was a copy an Order Approving Joint Application for Approval of Assumption Reseurchspire Agreement Regarding Covered Obligations Under the Liquidation Plan and Certain Related Prepaid Funeral Contracts filed in the District Court of Travis County, Texas on September 28, 2017 relating to National Prearranged Services Contracts.

Staff Update
Sandy shared that the two individuals had accepted offers to fill the processing technician positions in the office and those individuals were scheduled to begin later in the month.

Review of Public Comments - Executive Order 17-03 (Attachment A)
Board reviewed the public comments that were received in conjunction with the existing regulations and drafts previously reviewed.
The board discussed the comments received relating to 20 CSR 2120-2.010 (21) and (26) relating to embalmers and a motion was made by Scott Meierhoffer and seconded by James Reinhard to review the public comment and the regulation language during the full regulation review in 2018. Motion carried with Jerald Dickey, Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.
The board discussed the comments received relating to same regulation (11) (which also involves 2C CSR 2120-2.040, 2.060) relating to the examination scores and oral examination in 20 CSR 2120-2.010 (17) and
A motion was made by Scott Meierhoffer and seconded by James Reinhard to review the public comment and the regulation language during the full regulation review in 2018. Motion carried with Jerald Dickey, Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.

The board discussed the comment relating to 20 CSR 2120-2.030 (4) and (5) relating to death certificates. A motion was made by Scott Meierhoffer and seconded by James Reinhard to review the public comment and the regulation language during the full regulation review in 2018. Motion carried with Jerald Dickey, Gary Fraker and Kenneth McGhee voting in favor with no votes in opposition.

The board discussed the comment relating to 20 CSR 2120-2.060(5) commenting on the regulation language being editorial comments. A motion was made by Jerald Dickey and seconded by Scott Meierhoffer to review the public comment and the regulation language during the full regulation review in 2018. Motion carried with James Reinhard and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

The board reviewed comment relating to 20 CSR 2120-2.060(10). A motion was made by Jerald Dickey and seconded by James Reinhard to review the public comment and the regulation language during the full regulation review in 2018. Motion carried with Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

A motion was made by Scott Meierhoffer and seconded by James Reinhard to table further review of the comments to 2018 when all regulations will be reviewed and that time. Motion carried with Jerald Dickey and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

Discussion of future meeting dates
The board discussed and it was the consensus of the board to schedule a March 28-29, 2018 in Jefferson City as its next regularly scheduled meeting. The board also discussed scheduling a meeting to discuss regulations and it was the consensus of the board to set the meeting for January 9-10, 2018 beginning at 10:30a.m. in Jefferson City. Gary Fraker was not present.

Open Session/Discussion
Darlene Russell shared with the body that pre-filing of legislation had begun and that there were already several proposals filed that dealt with preneed and the funeral industry. Sandy shared that fiscal note reviews had begun coming in for review.

Don Lakin questioned why the letter he had written to Sarah Ledgerwood, Chief Division Counsel, was not included on the board’s agenda. It was shared that the letter was carbon copied to the board and that not all communication received in the board office is placed on the agenda. It was shared that the board had addressed adding Mr. Lakin’s letter to the next meeting of the board. Correspondence received the board office was discussed and Sarah shared that each board operates differently about how that is handled regarding what may or may not be on a board agenda.

Bill Stalfer asked for clarification that the board intended to have a separate meeting to discuss the scope of the financial examination and the board stated it would be scheduling a meeting to do so.

Move to Closed
A motion was made by Jerald Dickey and seconded by James Reinhard to move into closed session pursuant to #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with Scott Meierhoffer and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

Probation Violation Hearing – Duane Harvey – Case EMB 17-004-PV
A probation violation hearing was held and Diana Carter with Brydon, Swarengen and England represented the board. Sarah Ledgerwood served as advisor to the board. Mr. Harvey was not present and no one appeared on his behalf.
Move to Closed
A motion was made by James Reinhard and seconded by Scott Meierhoffer to move into closed session pursuant to #1, 2, 7, 8, and 9 of the attached motions to close. Motion carried with Jerald Dickey and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

Meeting Schedule
Scott Meierhoffer discussed moving the start time of the January 9-10, 2018 meeting to 8:30 a.m. on January 9th. It was the consensus of the board to move the start time.

Adjournment
A motion was made by Scott Meierhoffer and seconded by James Reinhard to adjourn at 11:32 a.m. on December 14, 2017. Motion carried with Jerald Dickey and Kenneth McGhee voting in favor with no votes in opposition. Gary Fraker was not present.

Executive Director [Signature]
Approved by the board on 3. 28. 2018
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 Section 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

State Board of Embalmers and Funeral Directors
Open Minutes
December 13- 4, 2017
Page 5
Lakin Funeral Home

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,

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.
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.
(8) 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 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.
(23) 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.

(24) Should an individual desire to obtain a Missouri embalmer’s license after his/her license has become void under section 333.381.3, 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.

(25) 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.

(26) 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.

(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.


Title 20-DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION
Division 2120-State Board of Embalmers and Funeral Directors
Chapter 1-Organization and Description of Board

PROPOSED AMENDMENT

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.]
(6) 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.]

(7) After graduating from an accredited institution program 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 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.

(8) Effective July 30, 2004, the Missouri State Board embalmers’ examination shall consist of the National Board Funeral Service Arts section examination, the National Board Funeral Service Science section examination, and Missouri Law section examination. Application, payment, scheduling, and administration for the National Board Funeral Service Arts examination, the National Board Funeral Service Science examination, and Missouri Law examination shall 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 examination if the applicant has successfully completed the Missouri Law section examination for another Missouri license within the jurisdiction of the board and if the current license is 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.

(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 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.
(11]) (9) Those applicants achieving seventy-five [percent] (75%) or greater on each of the [three (3)] examinations of the embalm[ing]er examination will be deemed to have passed the board’s embalm[ing]er examination. Any applicant who scores less than seventy-five [percent] (75%) on any [section] examination of the embalm[ing]er 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.

[(12)] (10) 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[ing]er 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.]

[(13)] (11) 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 numbers(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.

[(14)] (12) 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.]

[(15)] (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) (13) 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.

(14) 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.

[(17)] (15) 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].

[(18)] (16) 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)] (16) 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][120]330, RSMo.

[(20)] (17) An applicant shall meet the requirements of the board for licensure within five (5) years of his/her graduation from an accredited [institution] 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 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.

[(21)] (18) 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.

[(22)] (19) 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 of found guilty.
(20) 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.

(21) 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.

(22) 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.

(23) 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 2120-2.040 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.


20 CSR 2120-2.040 Licensure by Reciprocity

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.

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 form 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] 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 embalmor in another state.

(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;

(F) The reciprocity applicant will be required to successfully complete the [reciprocity] Missouri Law 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] Missouri Law examination is required, that applicant will be exempt from taking the [reciprocity] Missouri Law examination for the second license if the original Missouri license remains in active status or the applicant successfully completed the Missouri Law examination within the last twenty-four (24) months;

(G) A completed application for licensure for reciprocity provided by the board;
(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) Successfully complete the [reciprocity] Missouri Law 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] Missouri Law examination is required, that applicant will be exempt from taking the [reciprocity] Missouri Law examination for the second license if the original Missouri license remains in active status or the applicant successfully completed the Missouri Law examination with the last twenty-four months;
   (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] receipt 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) An applicant shall meet the requirements of the board for licensure within two (2) years of receipt of the application or the application will expire. If the applicant fails to meet the requirements of the board within the required time, a new application and applicable fees shall be filed.

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 or 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 licensee 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.


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 [section] 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 [section] examination and the Missouri Funeral Service Arts [section] 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] provided by the board and pay applicable fees [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, e] 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) Each registered funeral director apprentice shall provide to the board, on the application provided 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 [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] 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 funeral establishment(s) 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 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, 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.

[(2)] 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.
(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] 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, 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[,] 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 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.


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 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 Rules. 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.


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 2120-2.030 [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.

PURPOSE: This rule outlines the 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) Each licensed embalmer who embalms a dead human body shall state on the death certificate that 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) 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) 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.

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 2120-2.060 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 or 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 accrediting 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, county, 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.
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 2120-2.060 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 [section] 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 [section] examination and the Missouri Funeral Service Arts [section] 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] provided by the board and pay applicable fees [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, e] 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) Each registered funeral director apprentice shall provide to the board, on the application provided 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 [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] 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 funeral establishment(s) 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 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, 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 333.042.4, 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 apprenticeship 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 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.


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 "@os" 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 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 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.
Email Address: wastal@svbells.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
Sebastian, Sandy

From: embalm@pr.mo.gov
Sent: Tuesday, August 08, 2017 11:17 AM
To: Embalmers, PR; Sebastian, Sandy
Subject: 2017 Rule Review

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 #:
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)

August 8, 2017

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
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)(l) 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 submitted.
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 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 leave 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 criveway 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.
(21) According to section 333.121.2(17), RSMo, the State Board of Embalmers and Funeral Directors may impose disciplinary action for failure to obtain authorization to embalm from the person entitled to custody or control of the body, if the body is embalmed. If the body is not embalmed, a Missouri licensed funeral establishment shall not hold the unembalmed body for any longer than twenty-four (24) hours unless the unembalmed body is refrigerated in a cooling unit at a temperature of forty degrees Fahrenheit (40° F) or cooler or encased in an airtight metal or metal-lined burial case, casket or box that is closed and hermetically sealed. If the deceased gave written authorization to embalm and did not revoke the authorization, the authorization shall satisfy this requirement. If the deceased did not give written authorization to embalm, the next of kin of the deceased may give authorization to embalm. Authorization to embalm may be given by the next of kin prior to the death of the person whose body is to be embalmed. Authorization to embalm given prior to death may be in any written document, including a preneed contract.

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

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

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

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

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

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

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

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

(B) Authorization to embalm 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 maintain a cremation area and shall maintain a record of cremations.
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) [Purchase agreements] 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 [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.] (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 form 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.

ATTACHMENT A
(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) 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) 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 (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)] (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 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)]. , 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.


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.
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 complete.
   (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, 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 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 lapse 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.


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 2120-2.071 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.

(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.
(8) 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][11]) 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][12]) 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][13]) 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.

([17][14]) The remains or 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][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.

([19][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.

([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][17]) 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][18]) 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.

([23][19]) 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.
(20) 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.

(21) 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.

(22) 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.

(23) 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.


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

ATTACHMENT A
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 2120-2.090 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 urit. 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 rooms.

(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 deceased 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 in an individual plot 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 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.


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 2120-2.130 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 staffs' 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

Brad Speaks  President | CEO
Speaks Family Legacy Chapels
P.O. Box 259 | Independence, MO | 64051
brad.speaks@speakschapel.com
Office - 816.252.7900
Fax - 816.252.9758

Facebook