<u>Group 3 Rules</u>

<u>Rule re: Requirements for Written Notice</u>

Title: Requirements for Written Notification to the Board

Purpose: This rule details the requirements for written notification to the Board.

All written notice as required by Chapter 333, Sections 436.400 to 436.520 or any rule properly promulgated pursuant to Chapter 333 and Sections 436.400 to 436.520 shall include:

(1) The name of the seller and, if applicable the seller’s agent;
(2) The current business address and telephone number of the seller and, if applicable the seller’s agent;
(3) The license number of the seller and, if applicable, the registration number of the seller’s agent;
(4) The name of the provider;
(5) The current business address and telephone number of the provider;
(6) The license number of the provider;
(7) The name of the purchaser;
(8) The current address and if available, the telephone number of the purchaser;
(9) The date the written notice was executed;
(10) The signatures of all parties necessary to the particular requirement for written notice.

Authority: 333.340, 436.456

Rule re: What is irrevocable in an irrevocable contract

Title: Irrevocable contracts

Purpose: This rule states what portion of an irrevocable contract is irrevocable and what is revocable.

(1) In any irrevocable preneed contract, the following portions of the contract shall be irrevocable and not cancellable under any circumstances:
    a. The funds provided by the purchaser to support the preneed contract; and
    b. The disposition of the funds.
(2) Any other portion of an irrevocable contract can be cancelled upon agreement of the parties and written notice provided to the Board.

Authority: 333.340 and 436.456

Rule re: Disposition of funds upon cancellation

Title: Disposition of funds in a trust-funded contract upon cancellation

Purpose: This rule explains the disposition of funds in a trust-funded contract upon cancellation by the parties.

(1) When a purchaser elects to cancel a trust-funded preneed contract upon proper notice, the trustee shall distribute:
    a. The principal of the trust, including all payments received; and
    b. Any funds extracted from the principal pursuant to § 436.430.4, RSMo.

(2) The trustee shall not distribute the origination fee extracted from the trust principal pursuant to § 436.430.3, RSMo.

Authority: 333.340 and 436.456

Rule re: Seller cancellation of contracts

Title: Seller cancellation of contracts

Purpose: This rule explains the requirements of a seller upon cancellation of a preneed contract.

(1) The provisions of Section 436.457, RSMo allowing a seller to cancel a contract shall apply only to joint account and trust-funded contracts.
(2) Cancellation of insurance funded contracts shall be governed by the contract and insurance policy.
(3) The provisions of Section 436.457, RSMo do not limit a seller's right to discontinue providing services pursuant to Sections 436.458 and 436.500, RSMo.

Authority: 333.340 and 436.457

ALTERNATIVE A: Rule re: Seller requirements upon change of provider

Title: Seller requirements for disposition of funds if elect to terminate duties under contract upon change of provider.

Purpose: This rule describes a seller's requirements for disposition of funds if the seller elects to terminate his or her duties upon a change of provider.

(1) In the case of a trust-funded contract, upon written notification to the seller by the purchaser of the purchaser's intent to select an alternative provider, the seller shall elect to either continue under the new provider or terminate his or her duties under the agreement.

(2) If the seller elects to terminate his or her duties under the new provider, the seller shall pay to the new trust under the new provider all of the trust property including principal and income and all funds extracted pursuant to §§ 436.430.3 and 436.430.4, RSMo.

Authority: 333.340 and 436.458

ALTERNATIVE B: Rule re: Seller requirements upon change of provider

Title: Seller requirements for disposition of funds if elect to terminate duties under contract upon change of provider.

Purpose: This rule describes a seller's requirements for disposition of funds if the seller elects to terminate his or her duties upon a change of provider.
Authority 333.340 and 436.458

(1) In the case of a trust-funded contract, upon written notification to the seller by the purchaser of the purchaser's intent to select an alternative provider, the seller shall elect to either continue under the new provider or terminate his or her duties under the agreement.

(2) If the seller elects to terminate his or her duties under the new provider, the seller shall pay to the new trust under the new provider all of the trust property including principal and income but excluding all funds extracted pursuant to §§ 436.430.3 and 436.430.4, RSMo.

Authority: 333.340 and 436.458

Rule re: Requirements of seller annual reports

Title: Requirements for seller's annual reports.

Purpose: This rule clarifies the requirements for a seller's annual report.

(1) Every seller of preneed contracts shall file an annual report on a form prescribed by the Board;
(2) The report shall identify, by a number assigned to the contract, each and every contract sold since the last annual report. Only one number shall be assigned to each contract and no number shall be used more than once.
(3) Each annual report shall contain written consent authorizing the Board to conduct an investigation into the trust account. The investigation shall include, but not be limited to: a review of all financial statements, documents, books and records related to the trust; a review of all correspondence by or with the seller, provider, purchaser, seller's agent, trustee, and any other individuals authorized by law or statute;
(4) The report shall contain a notarized certification as to its accuracy;
(5) The report shall contain a list, including the name, address, contract number and funding mechanism of all Missouri preneed contracts fulfilled, cancelled or transferred during the prior calendar year;
(6) The report shall contain the name, business address and telephone number of the financial institution maintaining the trust account as well as the name, business address and telephone number of the trust manager or corporate contact;
(7) The report shall contain the trust fund balance reported on the previous year's report, or if the seller has never filed a report, the value of the trust according to the financial institution's report on October 31 of the previous year;
(8) The report shall contain the current trust fund balance. The current trust fund balance shall be the balance on a date no more than 10 business days prior to the date the seller files the report with the Board;
(9) The report shall contain all contributions made to the principal since the previous report. Each contribution shall be listed separately by date;
(10) For contracts funded by a joint account, the report shall include the amount on deposit in each joint account;
(11) For contracts funded by insurance, the report shall include the total face value of each policy and the status of each policy. The status should be identified as full-paid, receiving payments, lapsed, or other reference to accurately describe the state of the insurance-funded contract.
(12) If a seller fails to file an annual report on or before the October 31, 2009, the seller's license shall be automatically suspended on November 1, 2009 until such time as the seller submits the report and pays all applicable fees.

During a suspension of the seller's license, all the seller's contracts shall still be valid contracts.

(13) Section 436.460, RSMo shall apply to all contracts entered into before August 28, 2009 and all contracts entered into on or after August 28, 2009.

Authority: 333.340 and 436.460

Rule re: Fees

Title: Fees pursuant to Chapter 333 and Sections 436.400 to 436.520

Purpose: This rule sets out all fees contained in Chapter 333 and Sections 436.400 to 436.520.

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

(A) Embalmer Practicum Student Registration Fee	$25
(B) Embalmer Application Fee	$200
(C) Embalmer Oral Examination Fee	$125
(D) Embalmer Reciprocity Application Fee	$300
(E) Embalmer Biennial Renewal Fee	$200
(F) Funeral Director Application Fee	$200
(G) Funeral Director Limited License Application Fee	$200
(H) Funeral Director Reciprocity Application Fee	$300
(I) Funeral Director Biennial Renewal Fee	$200
(J) Reactivation Fee (up to one year lapse)	$100
(K) Reactivation Fee (up to two year lapse)	$200
(L) Establishment Application Fee	$300
(M) Amended Establishment Application Fee	$25
(N) Establishment Biennial Renewal Fee	$250
(O) Reciprocity Certification Fee	$10
(P) Duplicate Wallhanging Fee	$10
(Q) Collection Fee for Bad Checks	$25
(R) Law Book Requests (after initial request)	$5
(S) Examination Review Fee	$25
(T) Background Check Fee (determined by MSHP)	$
(U) Provider License Application Fee	$
(V) Provider Biennial Renewal Fee	$
(W) Seller License Application Fee	$
(X) Seller Biennial Renewal Fee	$
(Y) Seller Agent Registration Fee	$
(Z) Seller Agent Biennial Registration Renewal Fee	$
(AA) Seller Annual Report Fee	$
(BB) Seller Annual Report Late Fee	$
(CC) Seller Agent Law Examination Fee	$

(2) All fees are nonrefundable.

(3) The provisions of this rule hereby are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall

remain in full force, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission

Authority: 333.340

RESCIND 20 CSR 2120-2.100

Rule re: Record retention

Title: Seller record retention requirements

Purpose: This rule defines the requirements for maintaining records for preneed sellers.

(1) All preneed sellers shall maintain adequate records of all preneed contracts and related agreements with providers, trustees, financial institutions and seller's agents.
(2) The records shall be maintained within the State of Missouri in a format that is readily and easily accessible to the Board and its investigators.
(3) The records shall be maintained in a manner that will prevent decay or degradation such that the records can be preserved over time.
(4) Records can be maintained in hard copy or electronically but all must be readily accessible.
(5) All records must be readily capable of being copied.
(6) Sellers who maintain electronic records shall make hard copies of the records available to providers, trustees, purchasers, agents or the Board upon request.
(7) Records may be removed by the seller from the State of Missouri but only after a written request is made and written approval is provided by the Board.

Authority: 333.340 and 436.465

Rule re: Provider ceasing business

Title: Requirements of provider ceasing business

Purpose: This rule sets out requirements for a provider who ceases providing under preneed contracts.

(1) If a provider of a preneed contract ceases doing business, the provider shall make all reasonable good faith efforts to find a new provider to serve under all existing contracts.
(2) If a provider is unable to find any new providers to serve under the provider's existing contracts, the provider shall, no later than 30 business days before the provider winds up his business:
    a. Provide written notice to the seller, seller's agent, purchaser, and Board that despite good faith efforts replacement providers could not be found;
    b. In the case of trust-funded contracts, provide written notice to the trustee and/or corporate contact that the provider is winding up his business and no replacement provider was found;
    c. In the case of insurance contracts, provide written notice to the insurance company and/or corporate contact that the provider is winding up his business and no replacement provider was found;
    d. In the case of joint account funded contracts, provide written notice to the financial institution and/or corporate contract that the provider is winding up his business and no replacement provider was found.
    e. Provide written notice to the purchaser of their right to obtain a new provider.
(3) The provider shall provide written notice consistent with the rules promulgated pursuant to Sections 436.400 to 436.520, RSMo.

Authority: 333.340 and 436.490

Rule re: Seller ceasing business

Title: Requirements of a seller ceasing business

Purpose: This rule sets out requirements for a seller ceasing business under preneed contracts.

(1) If a seller of a preneed contract ceases doing business, the seller shall make all reasonable good faith efforts to find a new seller to serve under all existing contracts.

(2) If a seller is unable to find any new sellers to serve under the seller's existing contracts, the seller shall, no later than 30 business days before the seller winds up his business:

   a. Provide written notice to the provider, seller's agent, purchaser, and Board that despite good faith efforts replacement sellers could not be found;
   b. In the case of trust-funded contracts, provide written notice to the trustee and/or corporate contact that the seller is winding up his business and no replacement seller was found;
   c. In the case of insurance contracts, provide written notice to the insurance company and/or corporate contact that the seller is winding up his business and no replacement seller was found;
   d. In the case of joint account funded contracts, provide written notice to the financial institution and/or corporate contact that the seller is winding up his business and no replacement seller was found.

(3) The seller shall provide written notice consistent with the rules promulgated pursuant to Sections 436.400 to 436.520, RSMo.

(4) In the seller's ceasing business report to the Board, the seller shall include all information contained in § 436.500, all information pertaining to written notice in the regulations promulgated pursuant to Sections 436.400 to 436.520, and all information required in the seller's annual report pursuant to § 436.460, RSMo.

(5) The seller must also address the seller's contractual, fiduciary and other obligations as set forth in § 436.500.

Authority: 333.340 and 436.500