# Rules of Department of Commerce and Insurance

## Division 2120—State Board of Embalmers and Funeral Directors

## Chapter 3—Preneed

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Chapter 3—Preneed

20 CSR 2120-3.010 Preneed Seller Registration

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

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

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

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

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

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

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

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


20 CSR 2120-3.020 Preneed Provider Registration

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

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

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

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

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

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

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

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


20 CSR 2120-3.030 Notification of Intent to Sell Assets or Cease Doing Business (Seller or Provider)

PURPOSE: This rule outlines the procedures for preneed sellers and preneed providers to notify the board when selling or disposing of all or a majority of its business assets or its stock, or ceasing to do business.
(1) Notification of intent to sell assets or cease doing business must be made on the forms provided by the board.

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

(3) If a seller ceases business, the seller shall assign all active preneed contracts to another licensed seller and transfer the funds held in trust or in joint accounts to that licensed seller. In that assignment, the receiving seller shall agree to assume all obligations under the preneed contracts or in lieu of such complete assumption, the assignment shall set forth the obligations that the new seller is assuming.


20 CSR 2120-3.105 Filing of Annual Reports

PURPOSE: This rule prescribes the board’s process for the filing of annual reports under the revised sections of Chapters 333 and 436, RSMo.

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

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


20 CSR 2120-3.115 Contact Information

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

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

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


20 CSR 2120-3.120 Display of License

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

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

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

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


20 CSR 2120-3.125 Corporate Ownership of a License

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

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

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


## 20 CSR 2120-3.200 Seller Obligations

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

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

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

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

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


## 20 CSR 2120-3.305 Funeral Director Agent Registration

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

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

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


## 20 CSR 2120-3.310 Change in Seller Affiliation

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

(1) After initial application, if there is a change in seller affiliation, the provider shall provide written notice to the board, pursuant to section 436.420.3, RSMo, that the provider has authorized a new seller to designate the provider on the seller’s preneed contracts. This notice shall be provided to the board within fifteen (15) days after the provider authorizes the seller to act, and the notice shall contain, at least:

(A) Name and address of the provider;

(B) License number of the provider;

(C) Name and address of the seller; and

(D) Effective date of the authorization or agreement.

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


## 20 CSR 2120-3.400 Preneed Agents—Requirements of Agent’s Seller

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

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


20 CSR 2120-3.405 Preneed Agents—Missouri Law Exam

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

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

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

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

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

(5) The Missouri Law exam covers the following:

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

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


20 CSR 2120-3.410 Preneed Agent’s Seller Must Be Licensed

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

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


20 CSR 2120-3.505 Types of Financing: Other Financing Still Preneed

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

(1) Preneed contracts shall only be funded by:

(A) A preneed trust as defined by section 436.405.1(8), RSMo;
(B) An insurance policy or single premium annuity contract as defined by section 436.405.1(3), RSMo; or
(C) A joint account as defined by section 436.405.1(4), RSMo.

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


20 CSR 2120-3.515 Single Premium Annuity Contracts

(Rescinded August 30, 2020)

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


20 CSR 2120-3.525 Independent Financial Advisor is Agent of Trustee

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

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


20 CSR 2120-3.530 Confidentiality of Preneed Records Obtained by the Board through Financial Examination, Audit, or Investigation

PURPOSE: The purpose of this rule is to ensure confidentiality of consumer records and confidential data of licensees and registrants.

(1) Upon completion of any financial exam, audit, or investigation involving preneed records, the board members may be provided with a summary of the results of the exam, audit, or investigation and any such summary shall not include information made confidential per section 436.525, RSMo, unless such information is required for the board to evaluate whether the board should take further action.

(2) No individual member of the board shall be given access to review the work papers of the examiners, auditors, or investigator related to the examination, audit, or investigation of preneed records unless such access has been specifically approved by the board, as a body. Work papers shall include any records
or information obtained from any licensee, registrant, or any other source that includes any information made confidential by section 436.525, RSMo. Work papers shall also include any compilation, spreadsheet, or other record prepared by the examiner, auditor, or investigator from information and records obtained from the licensee, registrant, or other source that contains information made confidential by section 436.525, RSMo. Work papers shall not include any document that would otherwise be an open record under Missouri law.


20 CSR 2120-3.540 Financial Examination-Audit Process and Procedures

PURPOSE: This rule provides clarification of the financial examination process and procedures to educate licensees and the public.

(1) The board shall conduct a financial examination of the books and records of each seller at least once every five (5) years, subject to available funding.

(2) The board shall conduct financial examinations or audits as a means to ensure compliance with the provisions of Chapters 333 and 436.400 to 436.525, RSMo, and 20 CSR 2120-3 as those statutes and regulations relate to preneed funeral contracts.

(3) The board will set the scope of financial examinations.

(4) Upon determining that a financial examination or audit of a seller is to be conducted, the board will issue a notice to the assigned examiner that will instruct the examiner as to the scope of the financial examination or audit.

(5) Before the board begins a financial examination or audit, the board may provide notice to the seller that the board will be conducting a financial examination. This notice will contain the following:

(A) Notice to the seller that the board will be conducting a financial examination or audit; and

(B) A request of the seller to submit to the board specified records the board will require to begin the financial examination or audit and a date by which those records are due to the board. The board may request copies of statements showing trust balances and assets, joint account statements, verification of insurance for insurance funded preneed contracts, copies of ledgers or reports detailing all active preneed contracts, copies of agreements with providers, agents, trustees, and any other records the board deems relevant to conduct the financial examination or audit.

(6) Seller will be given opportunity to provide response to the financial examination or audit report.

(7) Upon the board’s determination that all exceptions identified in a financial examination or audit have been resolved, the board will provide written notice to the seller that the financial examination or audit has been closed by the board.


*(Original authority: 333.330, RSMo 2009; and 436.520, RSMo 2009.)*

20 CSR 2120-3.550 Seller Fees and Charges on Preneed Contracts

PURPOSE: This rule clarifies how optional fees or charges for items other than funeral services and funeral merchandise shall be shown on a preneed contract.

(1) If a seller and purchaser agree to include any optional fees or charges on a preneed contract for items other than funeral services and funeral merchandise, as those terms are defined in these rules and by provisions of Chapters 333 and sections 436.400 to 436.525, RSMo, the contract must include a description of each optional fee or charge as it is shown on the general price list. Examples of optional fees or charges that might be part of a preneed contract include fees for installment payments on the preneed contract, price protection, or price guarantee fees.

(2) With the exception of credit life premiums and the board’s state contract fee, as authorized by sections 436.400 to 436.525, RSMo, all optional fees or charges shall be considered as payments on the preneed contract and must be deposited pursuant to sections 436.400 to 436.525, RSMo, into trust or joint account, as per the terms of the preneed contract. For insurance funded preneed contracts, any optional fees shall be considered as part of the preneed contract.


*(Original authority: 333.340, RSMo 2009; 436.425, RSMo 2009; 436.430, RSMo 2009; and 436.520, RSMo 2009.)*

20 CSR 2120-3.560 Cemetery Exemption

PURPOSE: The purpose of the rule is to provide clarification regarding what preneed falls within Chapter 436, RSMo and Chapter 214, RSMo.

(1) Pursuant to section 333.310, RSMo, a cemetery is exempt from the licensure requirements of sections 333.315 and 333.320, RSMo, when all of the following conditions are satisfied:

(A) The cemetery has a current and valid license issued pursuant to section 214.275, RSMo;

(B) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for merchandise are made pursuant to a contract whereby such merchandise is either—

1. Purchased in conjunction with an interment right or grave space subject to section 214.320, RSMo; or

2. Made to be delivered to an interment right or grave subject to section 214.320, RSMo, that is owned by the purchaser and identified in the contract;

(C) The cemetery has not been found to be in non-compliance with sections 214.385 or 214.387, RSMo, by the Office of Endowed Care Cemeteries pursuant to a completed examination, audit, decision of the Administrative Hearing Commission, or order of any court; and

(D) The cemetery does not offer funeral services that may only be provided by a Missouri licensed funeral director or embalmer.
