

August 25, 2009

Cemetery Exception

The following is offered as the emergency rule for RSMo. Section 333.310:

Pursuant to RSMo. Section 333.310, a cemetery shall be exempt from the licensure requirements of RSMo. Sections 333.315 and 333.320 when all of the following conditions are satisfied:

- 1) The cemetery has a current and valid license issued pursuant to RSMo. Section 214.275;
- 2) All sales of merchandise made by the cemetery that would otherwise be defined as a preneed contract for funeral merchandise are made pursuant to a contract whereby such merchandise is either i) purchased in conjunction with an interment right or grave space subject to RSMo. Section 214.320, or ii) is to be delivered to an interment right or grave space subject to RSMo. Section 214.320 that is owned by the purchaser and identified within the contract;
- 3) The cemetery has not been found to be in non-compliance with RSMo. Section 214.385 or RSMo. Section 214.387 by the Office of Endowed Care Cemeteries pursuant to a completed examination or audit; and
- 4) The cemetery does not offer for sale caskets or services that may only be provided by a Missouri licensed funeral director or embalmer.

The following is offered as an emergency rule for RSMo. Section 436.410:

Pursuant to RSMo. Section 436.410, a preneed contract for the sale of funeral merchandise by a cemetery shall be exempt from the requirements of Chapter 436 when the sale is made pursuant to a contract whereby such merchandise is either i) purchased in conjunction with an interment right that is subject to RSMo. Section 214.320, or ii) is to be delivered to a grave space subject to RSMo. Section 214.320 that is owned by the purchaser and identified within the contract. However, if the contract includes caskets or services that may only be provided by a Missouri licensed funeral director or embalmer, the contract shall clearly set forth the application of payments and provide for administration pursuant to Chapter 436 for those payments applied to the casket or funeral services.