

~~The following directives on pages 3-5 were approved by the board on January 6, 2016.~~

Board Directives for Preneed Seller Financial Examinations, beginning in 2016

~~After research, consultation with other agencies and utilizing in-house resources, staff and counsel make the following recommendation for preneed seller financial exams to begin in January, 2016 and to continue until such time as the board determines it is necessary to amend these directives:~~

General Board Directives to Staff

1. Examinations are done to fulfill the board's statutory direction in Section 436.470, RSMo, to conduct financial examinations of each preneed seller at least once every 5 years.
2. Examinations are done within the scope of the board's statutory authority and to fulfill the board's purpose of protecting the public by ensuring that preneed sellers are complying with their statutory requirements and duties.
3. Examinations are done for the purpose of ensuring that sellers are safeguarding preneed funds and that the funds are properly utilized per contracts with the consumer and in accord with statutory requirements.
4. Staff shall work diligently and with good faith and fairness to ensure that each financial exam is conducted lawfully and with professional conduct to fulfill the board's directives.
5. ~~The board has directed the~~ Staff ~~is directed~~ to prepare a written financial exam procedures handbook to be used by all examiners in conducting financial examinations and to be provided to the industry as a guideline. Subject to approval by the board, the handbook shall set out all techniques for confirming data provided by sellers, consumers, financial institutions and insurance companies. Staff will provide the board an update as to the status of the procedural handbook at the fall 2016 meeting of the board.
6. ~~Staff may request information from sellers, as authorized by statute, as part of any financial examination, may utilize techniques required to confirm information provided by sellers including contacting preneed contract purchasers to confirm payments made and utilizing any of the other statutory authorities granted to the board to ensure final reports on financial examinations are as accurate as possible. Staff may request additional~~ information from sellers, consumers, ~~from~~ providers, ~~from~~ preneed agents, ~~from~~ banks, insurance companies, and ~~from other~~ fiduciaries, that may be needed to reconcile financial information provided by the seller. ~~but~~ The staff ~~with~~ ~~may not seek board approval to~~ utilize any court or administrative process to require any person to comply with any staff request for information without prior board approval.

Scope of Exams

7. For all preneed sellers, the examiners shall confirm:
 - a. Seller's seller license is current and active; (§ 333.320, RSMo)
 - b. Seller affirms that it has provided the board ~~with copies of access to~~ all preneed contracts, as requested; (§ 436.420, RSMo)
 - c. Preneed contracts meet the minimum statutory requirements as interpreted by the board; (§ 436.425, RSMo)

Comment [A1]: The staff does not have the authority to implement exam procedures without Board approval.

Comment [A2]: This language gives the staff discretion to use those procedures they feel are necessary. This would circumvent the Board's authority to govern the examination process.

Comment [A3]: The Board, not the staff, needs to define the requirements of each type of preneed contract. The staff has come up with burdensome standards for contract requirements that have no benefit to the consumer.