



FUNERAL DIRECTORS EXAMINING BOARD
Room 121A, 1400 East Washington Avenue, Madison
Contact: Brittany Lewin (608) 266-2112
February 23, 2016

The following agenda describes the issues that the Funeral Directors Examining Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a record of the actions of the Funeral Directors Examining Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of December 21, 2015 (4)

C. 9:30 A.M.: Public Hearing on Clearinghouse Rule 16-011, FD 1 and 4, Relating to Applications, Exams, Renewals and Approved Continuing Education Courses (5-19)

- 1) Review and Respond to Clearinghouse Report and Public Hearing Comments

D. 9:30 A.M.: Public Hearing on Clearinghouse Rule CR 16-010, FD 5, Relating to Reciprocity (20-31)

- 1) Review and Respond to Clearinghouse Report and Public Hearing Comments

E. Administrative Updates (32-36)

- 1) Staff Updates
- 2) Election of Board Officers
- 3) Appointment of Liaison and Delegation of Authorities
 - a. Delegation to Monitoring Liaison and Department Monitor

F. Legislative/Administrative Rule Matters (37-43)

- 1) Drafting for FD 1 and 2, Relating to Education and Apprenticeships and FD 4 Continuing Education Requirements
- 2) Update on Legislation and Pending or Possible Rulemaking Projects

G. Credentialing Matters (44)

- 1) Apprenticeship
- 2) Funeral Establishment Licenses

H. Education and Examination Matters (45)

- 1) Continuing Education Audit Request

I. Deliberation on Items Added After Preparation of Agenda:

- 1) Introductions, Announcements and Recognition
- 2) Election of Board Officers
- 3) Appointment of Board Liaison(s)
- 4) Administrative Updates **or** Administrative Matters
- 5) Education and Examination Matters
- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislative/Administrative Rule Matters
- 9) Liaison Reports
- 10) Informational Items
- 11) Disciplinary Matters
- 12) Presentations of Petitions for Summary Suspension
- 13) Petitions for Designation of Hearing Examiner
- 14) Presentation of Proposed Stipulations, Final Decisions and Orders
- 15) Presentation of Proposed Final Decision and Orders
- 16) Presentation of Interim Orders
- 17) Petitions for Re-Hearing
- 18) Petitions for Assessments
- 19) Petitions to Vacate Orders
- 20) Requests for Disciplinary Proceeding Presentations
- 21) Motions
- 22) Petitions
- 23) Appearances from Requests Received or Renewed
- 24) Speaking Engagement(s), Travel, or Public Relation Request(s)

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

K. Case Closings

- 1) 15 FDR 001 – S.M. **(46-49)**
- 2) 15 FDR 002 – D.N and J.M. **(50-53)**
- 3) 15 FDR 004 – Q.A.W. **(54-57)**
- 4) 15 FDR 005 – P.Z. and Z.F.H.I. **(58-62)**

L. Consultation with Legal Counsel

M. Deliberation of Items Added After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Application Matters
- 4) Disciplinary Matters
- 5) Monitoring Matters
- 6) Professional Assistance Procedure (PAP) Matters
- 7) Petitions for Summary Suspensions

- 8) Proposed Stipulations, Final Decisions and Order
- 9) Administrative Warnings
- 10) Proposed Decisions
- 11) Matters Relating to Costs
- 12) Case Closings
- 13) Petitions for Extension of Time
- 14) Proposed Interim Orders
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders
- 17) Remedial Education Cases
- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

N. Vote on Items Deliberated Upon in Closed Session if Voting is Appropriate

ADJOURNMENT

NEXT MEETING DATE MAY 24, 2016

**FUNERAL DIRECTORS EXAMINING BOARD
TELECONFERENCE/VIRTUAL MEETING MINUTES
DECEMBER 21, 2015**

PRESENT: Thomas Bradley, Marc Eernisse, Eric Lengell, Marla Michaelis

EXCUSED: Kristen Piehl, Dean Stensberg

STAFF: Brittany Lewin, Executive Director; Nifty Lynn Dio, Bureau Assistant and other Department Staff

Thomas Bradley, Chair, called the meeting to order at 9:04 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Marc Eernisse moved, seconded by Marla Michaelis, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Marla Michaelis moved, seconded by Eric Lengell, to approve the minutes of November 17, 2015 as published. Motion carried. Abstained: Marc Eernisse

LEGISLATION AND RULE MATTERS

Draft for Amending FD 5 Relating to Reciprocity

MOTION: Marla Michaelis moved, seconded by Marc Eernisse, to authorize the Chair to approve the preliminary rule draft of FD 5 relating to reciprocity for posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

Scope for FD 4 Relating to Continuing Education Requirements

MOTION: Marc Eernisse moved, seconded by Marla Michaelis, to approve the Scope Statement on FD 4 relating to continuing education requirements for submission to the Governor's Office and publication, and to authorize the Chair to approve the scope for implementation no less than 10 days after publication. Motion carried unanimously.

ADJOURNMENT

MOTION: Marc Eernisse moved, seconded by Marla Michaelis, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 9:42 a.m.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sandra Cleveland Administrative Rules Coordinator		2) Date When Request Submitted: February 10, 2016 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Funeral Examiners Board			
4) Meeting Date: February 23, 2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1. Public Hearing on CR 16-11, FD 1 and 4 Relating to Applications, Exams, Renewals and Approved Continuing Education Courses 2. Review and Respond to Clearinghouse Report and Public Hearing	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Hold public hearings at 9:30 am Discuss any public hearing comments. Review, discuss and respond to any Legislative Clearinghouse comments.			
11) Authorization			
<i>Sandra Cleveland</i>		<i>February 10, 2016</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS EXAMINING
FUNERAL DIRECTORS EXAMINING	:	BOARD ADOPTING RULES
BOARD	:	(CLEARINGHOUSE RULES)

PROPOSED ORDER

An order of the Funeral Directors Examining Board to repeal FD 1.03 (2) and 1.035; to amend FD 1.03 (1) and 4.04 (8); and to repeal and recreate FD 1.02 and 1.10, relating to applications, examinations, renewal of funeral director licenses, and approved continuing education.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 445.04, 445.045, and 445.06, Stats.

Statutory authority: ss. 15.08 (5) (b), 440.08 (3) (b), and 445.03 (2)(a), Stats.

Explanation of agency authority:

15.08 (5) (b), Stats. – Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

440.08 (3) (b), Stats. - The department or the interested examining board or affiliated credentialing board, as appropriate, may promulgate rules requiring the holder of a credential who fails to renew the credential within 5 years after its renewal date to complete requirements in order to restore the credential, in addition to the applicable requirements for renewal established under chs. 440 to 480, that the department, examining board or affiliated credentialing board determines are necessary to protect the public health, safety or welfare. The rules may not require the holder to complete educational requirements or pass examinations that are more extensive than the educational or examination requirements that must be completed in order to obtain an initial credential from the department, the examining board or the affiliated credentialing board.

445.03 (2) (a), Stats. - The examining board may make and enforce rules not inconsistent with this chapter establishing professional and business ethics for the profession of funeral directors and for the general conduct of the business of funeral directing, and for the examination and licensing of funeral directors and the registration of apprentices.

Related statutes or rules:

Wisconsin funeral director licensing requirements are found in ch. 445, Stats., “Funeral Directors”, and administrative rules promulgated by the Funeral Directors Examining Board found in chs. FD 1 to 6. Chapter 440, Department of Safety and Professional Services, and chs. SPS 1 to 9 outline the Department of Safety and Professional Services’ administrative procedures for issuing licenses, including procedures for disciplinary actions against licensees.

Plain language analysis:

Section 1 repeals the provision outlining examination application procedures and replaces it with licensing application procedures and requirements. Wisconsin law prohibits credentialing boards from requiring a person to complete any postsecondary education before the person is eligible to take an examination for a credential. This revision allows an applicant to complete the licensure requirement in any order allowing the applicant to take an examination prior to the completion of the education requirements in compliance with s. 440.071, Stats.

Section 2 simplifies the provision authorizing the board to establish the passing grade for licensure examinations.

Sections 3 and 4 repeal unnecessary and outdated provisions related to examination procedures.

Section 5 repeals FD 1.10 and recreates the section updating and clarifying renewal and reinstatement procedures to do the following:

- The rule continues to require a completed application and evidence that the licensee has completed the continuing education requirements specified in s. FD 4.03.
- The revision clarifies that if a person fails to renew a credential before an expiration date, the credential holder shall complete the renewal process and pay a late fee.
- The rule outlines a reapplication process for credential holders who have failed to renew a Wisconsin funeral director license for 5 or more years. All applicants under this subsection are required to submit an application, pay renewal and late fees, and pass the Wisconsin jurisprudence examination for funeral directors. Applicants who hold an active funeral director license in good standing in another state are required to submit evidence of current licensure.

Applicants whose license has expired for more than 5 but less than 10 years and who do not hold an active license from another state are required to attest to completion of 30 hours of continuing education approved by the board. The continuing education must have been completed within 4 years of application and must include a minimum of 10 hours of in-person instruction.

Finally, applicants whose funeral directors licenses have expired 10 years or more and who do not hold an active license in another state are required to complete the National Board

Examination within the 12 months prior to application, along with 30 hours of continuing education courses. Continuing education courses must have been completed within 4 years of application and include a minimum of 10 hours of in-person instruction.

- The rule outlines procedures for reinstating a license for a license holder who has unmet disciplinary requirements or whose credential has been surrendered or revoked.
- This revision repeals FD 1.10 (4) related to exemptions to renewal time limits for a license holders who is an active member of the U.S. armed forces. The provision was in conflict with s. 321.60 (1)(a)(18), Stats., which governs extension of licenses for service members.

Section 6 is amended to accept courses approved by the Academy of Professional Funeral Service Practice (APFSP) to meet continuing education requirements without requiring approval by the Funeral Directors Examining Board for these courses, streamlining the process for receiving continuing education credits from this organization.

Summary of, and comparison with, existing or proposed federal regulation:

Licensing requirements for funeral directors are established by state law. Federal regulations do not govern applications, renewal, or reinstatement procedures for funeral directors.

Comparison with rules in adjacent states:

Illinois: Illinois requires applicants for a funeral director license to submit an application form and fee, provide proof that the applicant has met educational requirements established for funeral directors, a certificate of health, proof that the applicant has passed the National Board Examination of the International Conference of Funeral Service Examining Boards, Inc., and proof of successful completion of an internship. Applicants are required to complete at least 30 semester (45 quarter) hours of college credit and graduation from an approved mortuary science program of at least 12 months.

Illinois allow licensees with licenses that have expired for less than five years to renew their license by submitting an application form, paying renewal and late fees, and providing proof of completion of CE requirements. Licenses that have expired for more than five years may be reinstated by paying renewal and restoration fees, providing proof of completion of continuing education hours for one prerenewal period, and one of the following: 1) sworn evidence of practice in another jurisdiction, 2) affidavit attesting to military service, or 3) evidence of other education or experience within the 5 years preceding restoration demonstrating the licensee's fitness and competence in funeral directing and embalming. This competence may be demonstrated through proof of successful completion of the National Board Examination or proof of 6 credit hours of mortuary science coursework in addition to the continuing education requirements.

Iowa: Iowa requires applicants for a funeral director license to submit an application form and fee, provide proof that the applicant has met educational requirements, proof that the applicant has passed the National Board Examination of the International Conference of Funeral Service

Examining Boards, Inc., and proof of successful completion of an internship. Iowa requires completion of 60 semester hours of college credit and graduation from a mortuary science program approved by the American Board of Funeral Service Education.

Iowa licenses that have expired within 5 years of the expiration date may be renewed by submitting an application form, paying renewal and late fees, and providing proof of completion of continuing education requirements. A license that has been inactive for more than five years in Iowa may be reinstated after the licensee provides documentation of any license held in other jurisdictions in which the applicant has practiced while the Iowa license was inactive and verifies that he or she has completed 48 hours of continuing education courses, including verification of completion of a college course of one semester hour in Iowa mortuary science laws and rules.

Michigan: Michigan requires applicants for a funeral director license to submit an application form and fee, proof that the applicant has passed the mortuary science exam, and proof of successful completion of an internship. Applicants must also provide proof that they have met educational requirements, which includes 60 semester hours or 90 quarter hours of non-remedial courses at an accredited college and one academic year of instruction from a mortuary science program. Michigan contracts with PSI Services, LLC., to conduct the mortuary science examination.

Mortuary science licenses expire October 31st of every odd-numbered year. Any applicant who fails to renew their license within 60 day late renewal period must apply for relicensure. Michigan allows a license to be renewed within 3 years of the expiration date by submitting an application form, paying renewal and late fees and providing proof of completion of continuing education requirements. A person who seeks relicensure more than 3 years from his or her license expiration must meet current educational requirements for a new license and pass the current written examination on Michigan's law and rules related to funeral directors.

Minnesota: Minnesota requires applicants for a funeral director license to submit an application form and fee, proof that the applicant has passed the National Board Exam of the International Conference of Funeral Examining Boards and a state exam encompassing the laws and rules of Minnesota. The applicant must also provide proof of successful completion of an internship. Minnesota requires applicants to hold a bachelor of science degree with a major in mortuary science, a bachelor of science or arts degree with a separate course of study in mortuary science, or completed the equivalent educational requirements.

Licenses expire on December 31 of the calendar year in which the license was issued. Renewal applications received up to 31 days after the December 31 deadline must include a late filing penalty fee. A license lapses when a renewal application and renewal fees are not received within 31 calendar days after the expiration date. The commissioner issues a cease and desist order to prevent an individual with a lapsed license from practicing mortuary science. Minnesota allows a licensee to restore a lapsed license within one year after the license expiration date by submitting an application and paying a renewal and late fee, provided that the person has not violated the cease and desist order. Licensees with licenses that have lapsed for more than a year must meet all requirements of an initial license to be relicensed.

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board reviewed existing regulations and updated provisions to ensure compliance with 2013 Wisconsin Act 114, which prohibits the department or credentialing boards from requiring applicants to complete any postsecondary education or other program before taking an examination for a credential before issuing the credential. The Board also proposed changes consistent with current industry practices to modernize application, licensing renewal, and acceptance of continuing education courses approved by the Academy of Professional Funeral Service Practice (APFSP).

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The department posted the rule for 14 days to solicit comments regarding the potential economic impact of the rule.

Fiscal Estimate and Economic Impact Analysis:

The economic impact analysis is attached.

Effect on small business:

These proposed rules are not anticipated to have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Jeff.Weigand@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sandra Cleveland, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0797; email at Sandy.Cleveland@wisconsin.gov.

TEXT OF RULE

SECTION 1. FD 1.02 is repealed and recreated to read:

FD 1.02 Applications. An applicant for a funeral director’s license shall submit all of the following:

- (1) A completed application.
- (2) Required fee under s. 440.03 (9) (a), Stats.
- (3) Evidence of completion of 2 academic years of instruction in a recognized college or university meeting the requirements of s. FD 1.04.
- (4) Evidence of completion of 9 months or more instruction in a prescribed course in mortuary science meeting the requirements of s. FD 1.05 after having completed 1 year of college work or equivalent education.

- (5) Evidence of completion of 1 year of apprenticeship under s. 445.095, Stats.
- (6) If the applicant has an arrest or conviction record, documentation necessary for the board to determine whether the circumstances substantially relate to the practice of funeral director, subject to ss. 111.321, 111.322 and 111.335, Stats.
- (7) Evidence of passage of the National Board Examination of the International Conference of Funeral Service Examining Boards.
- (8) Evidence of passage of the Wisconsin jurisprudence examination for funeral directors.

SECTION 2. FD 1.03(1) is amended to read:

(1) ~~To pass the initial~~ The passing grade on each licensure examination ~~each applicant~~ shall receive a grade be determined by the board to represent minimum competence to practice. ~~The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession. The board may adopt the recommended passing score of the examination provider.~~

SECTION 3. FD 1.03(2) is repealed.

SECTION 4. FD 1.035 is repealed.

SECTION 5. FD 1.10 is repealed and recreated to read:

FD 1.10 License renewal and reinstatement procedures. (1) RENEWAL WITHIN 5 YEARS. A credential holder shall renew the license by paying the renewal fee specified in s. 440.08 (2), Stats., and attesting to completion of the continuing education required under s. FD 4.03. If the credential is not renewed before its expiration date, the credential holder shall pay a late renewal fee.

(2) RENEWAL AFTER 5 YEARS. A credential holder who has failed to renew a license within 5 years after the renewal date holds an expired license and may not reapply for the license using the initial application process. This subsection does not apply to license holders who have unmet disciplinary requirements or whose credentials have been surrendered or revoked. An applicant who holds an expired funeral director's license shall submit all of the following:

- (a) A completed application.
- (b) The renewal and late fees specified in s. 440.08 (2) and (3) (a), Stats.
- (c) Evidence of passage of the Wisconsin jurisprudence examination for funeral directors.
- (d) Evidence of one of the following:
 1. Current licensure as a funeral director if the applicant holds an active license in good standing as a funeral director in another state.

2. If the applicant's funeral director's license has expired for more than 5 but less than 10 years and the applicant does not hold an active license in good standing as a funeral director in another state, attestation to the completion of 30 hours of continuing education approved by the board. The continuing education courses shall have been completed within the 4 years prior to

application for licensure under this subsection and shall include a minimum of 10 hours of in-person instruction.

3. If the applicant's funeral director's license has expired for 10 years or more and the applicant does not hold an active license in good standing as a funeral director in another state, the applicant shall provide evidence of passage of the National Board Examination of the International Conference of Funeral Service Examining Boards within 12 months prior to application for a license under this subsection and attestation to the completion of 30 hours of continuing education approved by the board. The continuing education courses shall have been completed within the 4 years prior to application for licensure under this subsection and shall include a minimum of 10 hours of in-person instruction.

(3) REINSTATEMENT. A credential holder who has unmet disciplinary requirements and failed to renew the credential within 5 years or whose credential has been surrendered or revoked may apply to have the license reinstated in accordance with all of the following:

- (a) Evidence of completion of the requirements in sub. (2) if the credential has not been active within the last 5 years.
- (b) Evidence of completion of disciplinary requirements, if applicable.
- (c) Evidence of rehabilitation or change in circumstances, warranting reinstatement of the credential.

SECTION 6. FD 4.04 (8) is amended to read:

FD 4.04 (8) A continuing education course sponsored by a national, international or state funeral director's association, or an educational institution accredited by the American Board of Funeral Service Education or approved by the Academy of Professional Funeral Service Practice (APFSP) or otherwise deemed to be equivalent by the board, which satisfies the criteria established in sub. (1)(a) to (d) and s. FD 4.045, shall be approved by the board without receipt of a course approval application from the program provider.

SECTION 7. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>										
<p>2. Administrative Rule Chapter, Title and Number FD 1, Licenses and Permits and FD 4, Continuing Education Requirements.</p>										
<p>3. Subject Applications, exams, renewal of funeral directors licenses and approved continuing education requirements</p>										
<p>4. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>5. Chapter 20, Stats. Appropriations Affected 20.165 (1)(g)</p>									
<p>6. Fiscal Effect of Implementing the Rule</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;"><input type="checkbox"/> No Fiscal Effect</td> <td style="width: 33%;"><input type="checkbox"/> Increase Existing Revenues</td> <td style="width: 33%;"><input checked="" type="checkbox"/> Increase Costs</td> </tr> <tr> <td><input type="checkbox"/> Indeterminate</td> <td><input type="checkbox"/> Decrease Existing Revenues</td> <td><input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</td> </tr> <tr> <td></td> <td></td> <td><input type="checkbox"/> Decrease Cost</td> </tr> </table>		<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs	<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget			<input type="checkbox"/> Decrease Cost
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<input type="checkbox"/> Indeterminate	<input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Could Absorb Within Agency's Budget								
		<input type="checkbox"/> Decrease Cost								
<p>7. The Rule Will Impact the Following (Check All That Apply)</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"><input type="checkbox"/> State's Economy</td> <td style="width: 50%;"><input type="checkbox"/> Specific Businesses/Sectors</td> </tr> <tr> <td><input type="checkbox"/> Local Government Units</td> <td><input type="checkbox"/> Public Utility Rate Payers</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Small Businesses (if checked, complete Attachment A)</td> </tr> </table>		<input type="checkbox"/> State's Economy	<input type="checkbox"/> Specific Businesses/Sectors	<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers		<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)			
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<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers									
	<input type="checkbox"/> Small Businesses (if checked, complete Attachment A)									
<p>8. Would Implementation and Compliance Costs Be Greater Than \$20 million? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>										
<p>9. Policy Problem Addressed by the Rule This revision clarifies, simplifies, and aligns funeral director rules relating to applications, exams and renewals of funeral directors licenses with statutes. The rule was revised to incorporate changes from 2013 Wisconsin Act 114, which prohibits the department of safety and professional services or a credentialing board from requiring a person to complete any postsecondary education before the person is eligible to take an examination for a credential. The rule also removes obsolete provisions related to examination procedures. The rule updates and clarifies board procedures for renewal and reinstatement of funeral director licenses, including updating requirements for credential holders who have failed to renew a Wisconsin funeral director license for 5 or more years. Finally, the rule recognizes courses approved by the Academy of Professional Funeral Service Practice as meeting continuing education requirements so that program providers no longer need to request board approval for these courses.</p>										
<p>10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments. Applicants for funeral director licenses and current funeral director licensees.</p>										
<p>11. Identify the local governmental units that participated in the development of this EIA. This rule does not impact local governmental units and no local governmental units participated in the development of this EIA.</p>										
<p>12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) This rule was posted for economic impact comments for 14 days and none were received.</p>										
<p>13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The revision modernizes, clarifies, and simplifies funeral director licensure requirements. The revision will ensure the rule is aligned with statutes. It allows applicants to complete licensure requirements in any order, including allowing an applicant to take an examination prior to the completion of education requirements, consistent with 2013 Wisconsin Act 114. It eliminates obsolete examination provisions and eliminates the need for program providers to seek board approval of continuing education courses approved by the Academy of Professional Funeral Service Practice.</p>										

Without this rule revision, Wisconsin's funeral director licensing regulations will not be in compliance with state law and will contain obsolete and confusing provisions regarding application, examination and license renewal and reinstatement requirements. Program providers will continue to have to seek approval from the board for continuing education courses approved by the Academy of Professional Funeral Service Practice.

14. Long Range Implications of Implementing the Rule

The rule clarifies and simplifies funeral director application, examination and licensing requirements, reducing potential confusion with the process and ensuring Wisconsin's funeral directors continue to meet professional standards.

15. Compare With Approaches Being Used by Federal Government

Federal regulations do not govern licensing procedures for funeral directors.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois requires applicants for a funeral director license to submit an application form and fee, provide proof that the applicant has met educational requirements established for funeral directors, a certificate of health, proof that the applicant has passed the National Board Examination of the International Conference of Funeral Service Examining Boards, Inc., and proof of successful completion of an internship. Applicants are required to complete at least 30 semester (45 quarter) hours of college credit and graduation from an approved mortuary science program of at least 12 months.

Licenses that have expired for more than five years may be reinstated by paying renewal and restoration fees, providing proof of completion of continuing education hours for one pre-renewal period, and one of the following: 1) sworn evidence of practice in another jurisdiction, 2) affidavit attesting to military service, or 3) evidence of other education or experience within the 5 years preceding restoration demonstrating the licensee's fitness and competence in funeral directing and embalming. This competence may be demonstrated through proof of successful completion of the National Board Examination or proof of 6 credit hours of mortuary science coursework in addition to the continuing education requirements.

Iowa: Iowa requires applicants for a funeral director license to submit an application form and fee, provide proof that the applicant has met educational requirements, proof that the applicant has passed the National Board Examination of the International Conference of Funeral Service Examining Boards, Inc., and proof of successful completion of an internship. Iowa requires completion of 60 semester hours of college credit and graduation from a mortuary science program approved by the American Board of Funeral Service Education.

A license that has been inactive for more than five years in Iowa may be reinstated after the licensee provides documentation of any license held in other jurisdictions in which the applicant has practiced while the Iowa license was inactive and verifies that he or she has completed 48 hours of continuing education courses, including verification of completion of a college course of one semester hour in Iowa mortuary science laws and rules.

Michigan: Michigan requires applicants for a funeral director license to submit an application form and fee, proof that the applicant has passed the mortuary science exam, and proof of successful completion of an internship. Applicants must also provide proof that they have met educational requirements, which includes 60 semester hours or 90 quarter hours of non-remedial courses at an accredited college and one academic year of instruction from a mortuary science program. Michigan contracts with PSI Services, LLC, to conduct the mortuary science examination.

Mortuary science licenses expire October 31st of every odd-numbered year. Any applicant who fails to renew their license within 60 day late renewal period must apply for re-licensure. Michigan allows a license to be renewed within 3

years of the expiration date by submitting an application form, paying renewal and late fees and providing proof of completion of continuing education requirements. A person who seeks re-licensure more than 3 years from his or her license expiration must meet current educational requirements for a new license and pass the current written examination on Michigan's law and rules related to funeral directors.

Minnesota: Minnesota requires applicants for a funeral director license to submit an application form and fee, proof that the applicant has passed the National Board Exam of the International Conference of Funeral Examining Boards and a state exam encompassing the laws and rules of Minnesota. The applicant must also provide proof of successful completion of an internship. Minnesota requires applicants to hold a bachelor of science degree with a major in mortuary science, a bachelor of science or arts degree with a separate course of study in mortuary science, or completed equivalent educational requirements.

Licenses expire on December 31 of the calendar year in which the license was issued. Renewal applications received up to 31 days after the December 31 deadline must include a late filing penalty fee. A license lapses when a renewal application and renewal fees are not received within 31 calendar days after the expiration date. The commissioner issues a cease and desist order to prevent an individual with a lapsed license from practicing mortuary science. Minnesota allows a licensee to restore a lapsed license within one year after the license expiration date by submitting an application and paying a renewal and late fee, provided that the person has not violated the cease and desist order. Licensees with licenses that have lapsed for more than a year must meet all requirements of an initial license to be relicensed.

17. Contact Name Sandra Cleveland	18. Contact Phone Number (608) 266-0797
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This document can be made available in alternate formats to individuals with disabilities upon request.

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit S. Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 16-011

AN ORDER to repeal FD 1.03 (2) and 1.035; to amend FD 1.03 (1) and 4.04 (8); and to repeal and recreate FD 1.02 and 1.10, relating to applications, examinations, renewal of funeral director licenses, and approved continuing education.

Submitted by **FUNERAL DIRECTORS EXAMINING BOARD**

01-13-2016 RECEIVED BY LEGISLATIVE COUNCIL.

02-08-2016 REPORT SENT TO AGENCY.

SG:DWS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 16-011

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

Current s. FD 1.01 indicates that the statutory authority for the chapter is derived from ss. 15.08 (5) (b), 227.11, and 445.03, Stats. The proposed rule also cites s. 440.08 (3) (b), Stats., as providing authority for the new rule. This citation should be added to the authority and intent section under s. FD 1.01.

2. Form, Style and Placement in Administrative Code

a. Is there a rule provision that applies to reinstatement of a credential holder who has unmet disciplinary requirements, has not surrendered the credential or had it revoked, and who wishes to renew the credential within five years? Section FD 1.10 (3) appears to apply only to credential holders with unmet disciplinary requirements who fail to renew within five years or whose credential has been surrendered or revoked. Should ch. FD 1 contain a provision similar to s. Phar 5.04, as amended by CHR 15-081?

b. Section FD 4.04 (8) provides the acronym “APFSP” following reference to the Academy of Professional Funeral Service Practice. The acronym does not appear to be referenced elsewhere in ch. FD 4. If that is accurate, inclusion of the acronym is unnecessary.

5. Clarity, Grammar, Punctuation and Use of Plain Language

Because s. FD 1.10 (3) relates to reinstatement and licensees with unmet disciplinary requirements, is it necessary to use the phrase “if applicable” at the end of s. FD 1.10 (3) (b)? Under what circumstances would evidence of completion of disciplinary requirements be inapplicable?

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sandra Cleveland Administrative Rules Coordinator		2) Date When Request Submitted: February 10, 2016 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Funeral Examiners Board			
4) Meeting Date: February 23, 2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1. Public Hearing on CR 16-10, FD 5 Relating to Reciprocity 2. Review and Respond to Clearinghouse Report and Public Hearing	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Hold public hearings at 9:30 am Discuss any public hearing comments. Review, discuss and respond to any Legislative Clearinghouse comments.			
11) Authorization			
<i>Sandra Cleveland</i>		<i>February 10, 2016</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS EXAMINING
FUNERAL DIRECTORS EXAMINING	:	BOARD ADOPTING RULES
BOARD	:	(CLEARINGHOUSE RULES)

PROPOSED ORDER

An order of the Funeral Directors Examining Board to repeal FD 5 and to create FD 1.12, relating to reciprocity requirements for funeral directors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 445.04, 445.045, and 445.06, Stats.

Statutory authority: ss. 15.08 (5) (b) and 445.03 (2) (a), Stats.

Explanation of agency authority:

15.08(5) (b), Stats.- Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

445.03 (2) (a), Stats. - The examining board may make and enforce rules not inconsistent with this chapter establishing professional and business ethics for the profession of funeral directors and for the general conduct of the business of funeral directing, and for the examination and licensing of funeral directors and the registration of apprentices.

Related statutes or rules:

Wisconsin funeral director licensing requirements are found in ch. 445, Stats., “Funeral Directors”, and administrative rules promulgated by the Funeral Directors Examining Board found in chs. FD 1 to 6. Chapter 440, Stats., and chs. SPS 1 to 9 outline the Department of Safety and Professional Services’ administrative procedures for issuing licenses, including procedures for disciplinary actions against licensees.

Plain language analysis:

Section 1 streamlines and clarifies licensing requirements for applicants who currently hold an active funeral director’s license in good standing in another jurisdiction. The revision aligns the

requirements with statutory requirements found in s. 445.08, Stats., “Reciprocity in issuance of licenses.” The revision consolidates reciprocity requirements with other licensing information found in FD 1, improving ease of access to licensing information.

Section 2 repeals FD 5, since the rule revision transfers all reciprocity requirements to FD 1.

Summary of, and comparison with, existing or proposed federal regulation:

Federal regulations do not govern reciprocity requirements for funeral directors.

Comparison with rules in adjacent states:

Illinois: Applicants who are licensed as a funeral director and embalmer in another jurisdiction and who wish to apply for an Illinois license must submit official transcripts demonstrating that they meet Illinois’ educational requirements for funeral directors, an affidavit stating that the applicant has been actively engaged in practice as a funeral director for at least 1 year, certification by the state or territory of original and current licensure stating the time which the applicant was licensed in that jurisdiction, any record of disciplinary actions taken or pending, a brief description of examinations completed and the applicant’s grades, and a statement that the state of licensure grants reciprocity to funeral directors and embalmers licensed in Illinois. The Division examines each reciprocity application to determine whether the license held by the applicant is from a jurisdiction substantially equivalent to Illinois’ requirements.

Iowa: Applicants who have been licensed as a funeral director under the laws of another jurisdiction may apply for licensure by endorsement with the Iowa board office by submitting an application and licensure fee and providing evidence of meeting licensure requirements similar to those required in Iowa. Applicants are required to provide official academic transcripts showing training in mortuary science, completion of general education requirements, and evidence of completion of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science, cremation, vital statistics, cemeteries, and preneed. The applicant must provide verification of licenses from every jurisdiction in which the applicant has been licensed.

Michigan: Michigan issues a mortuary science license to individuals who hold a valid license in another state if the state has substantially equivalent requirements to Michigan’s requirements. Applicants must file the following with the department: An application to practice in the state, a certified statement from the examining board of the state in which the applicant holds a license that shows the basis on which the license was granted, and a statement as to whether that board has suspended, revoked, or limited that license. Michigan also requires proof that the applicant has passed the exam on Michigan’s law relating to the practice of mortuary science.

Minnesota: Minnesota may issue a license to practice mortuary science to a person who holds a current license or other credential from another jurisdiction if the commissioner determines the requirements for that license or other credential are substantially similar to Minnesota’s mortuary science practice requirements. A person seeking a reciprocal licensing must pass the Minnesota state licensing examination and submit a completed application form, proof of age, an official

transcript from each post high school educational institution attended, certification of passing scores on the National Board Examination and on the state licensing examination.

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board reviewed existing regulations and updated provisions to ensure compliance with statutes governing reciprocity.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The department posted the rule for 14 days to solicit economic impact comments.

Fiscal Estimate and Economic Impact Analysis:

The economic impact analysis is attached.

Effect on small business:

These proposed rules are not anticipated to have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department’s Regulatory Review Coordinator may be contacted by email at Jeff.Weigand@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sandra Cleveland, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0797; email at Sandy.Cleveland@wisconsin.gov.

TEXT OF RULE

SECTION 1. FD 1.12 is created to read:

FD 1.12 Reciprocity. A person licensed as a funeral director in another state may obtain a license under this chapter if the applicant holds a valid funeral director’s license in good standing from another state having requirements determined by the board to be substantially equivalent to the requirements prescribed in s. 445.045, Stats., and this chapter. An applicant for a license under this chapter shall submit all of the following:

- (a) A completed application.
- (b) The fee specified under s. 440.5 (2), Stats.
- (c) If the applicant has an arrest or conviction record, documentation necessary for the board to determine whether the circumstances substantially relate to the practice of funeral director, subject to ss. 111.321, 111.322 and 111.335, Stats.
- (d) Verification of license from any state of licensure.

(e) Evidence of passage of the Wisconsin jurisprudence examination for funeral directors.

SECTION 2. FD 5 is repealed.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Applicants who are licensed as a funeral director and embalmer in another jurisdiction and who wish to apply for an Illinois license must submit official transcripts demonstrating that they meet Illinois' educational requirements for funeral directors, an affidavit stating that the applicant has been actively engaged in practice as a funeral director for at least 1 year, certification by the state or territory of original and current licensure stating the time which the applicant was licensed in that jurisdiction, any record of disciplinary actions taken or pending, a brief description of examinations completed and the applicant's grades, and a statement that the state of licensure grants reciprocity to funeral directors and embalmers licensed in Illinois. The Division examines each reciprocity application to determine whether the license held by the applicant is from a jurisdiction substantially equivalent to Illinois' requirements.

Iowa: Applicants who have been licensed as a funeral director under the laws of another jurisdiction may apply for licensure by endorsement with the Iowa board office by submitting an application and licensure fee and providing evidence of meeting licensure requirements similar to those required in Iowa. Applicants are required to provide official academic transcripts showing training in mortuary science, completion of general education requirements, and evidence of completion of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science, cremation, vital statistics, cemeteries, and preneed. The applicant must provide verification of licenses from every jurisdiction in which the applicant has been licensed.

Michigan: Michigan issues a mortuary science license to individuals who hold a valid license in another state if the state has substantially equivalent requirements to Michigan's requirements. Applicants must file the following with the department: An application to practice in the state, a certified statement from the examining board of the state in which the applicant holds a license that shows the basis on which the license was granted, and a statement as to whether that board has suspended, revoked, or limited that license. Michigan also requires proof that the applicant has passed the exam on Michigan's law relating to the practice of mortuary science.

Minnesota: Minnesota may issue a license to practice mortuary science to a person who holds a current license or other credential from another jurisdiction if the commissioner determines the requirements for that license or other credential are substantially similar to Minnesota's mortuary science practice requirements. A person seeking a reciprocal licensing must pass the Minnesota state licensing examination and submit a completed application form, proof of age, an official transcript from each post high school educational institution attended, certification of passing scores on the National Board Examination and on the state licensing examination.

17. Contact Name
Sandra Cleveland

18. Contact Phone Number
(608) 266-0797

This document can be made available in alternate formats to individuals with disabilities upon request.

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
-



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Jessica Karis-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 16-010

AN ORDER to repeal ch. FD 5; and to create FD 1.12, relating to reciprocity requirements for funeral directors.

Submitted by **FUNERAL DIRECTORS EXAMINING BOARD**

01-13-2016 RECEIVED BY LEGISLATIVE COUNCIL.

02-11-2016 REPORT SENT TO AGENCY.

MSK:MS

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 16-010

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

The statutory authority for the Board to issue funeral director licenses based upon reciprocity is s. 445.08, Stats. This statute should be listed as part of the “statutory authority” in the analysis of the proposed rule. Section 445.08, Stats., should also be listed as one of the “statutes interpreted” instead of s. 445.06, Stats.

2. Form, Style and Placement in Administrative Code

a. Section FD 1.12 contains introductory material, followed by pars. (a) to (e). However, the first subunit to follow a section should be a subsection. [s. 1.03 (1), Manual.] As such, pars. (a) to (e) should be renumbered as subs. (1) to (5).

b. A heading and entry should be inserted at the end of the analysis for the proposed rule to specify the place where comments are to be submitted and the deadline for submission. [s. 1.02 (2) (a) 13., Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section FD 1.12 (intro.) states that a person holding a valid funeral director’s license in good standing from another state may obtain a Wisconsin funeral director’s license, if certain requirements are met. However, under s. FD 1.12 (d), the requirement only states that the applicant for licensure must “submit verification of license from any state of licensure”, which does not appear to be limited to current licensure that is in good standing. The Board should review the

intent of the rule and clarify whether verification of licensure in another state must be current and in good standing.

b. Section FD 1.12 (a) requires that an applicant for licensure under reciprocity must submit a completed application. It does not state what kind of application must be submitted. For example, is the applicant to submit an application for examination, licensure, or licensure under reciprocity? Because ch. FD 1 currently mentions other types of applications, the Board should clarify what kind of application is required of a person applying for licensure based upon reciprocity.

c. The Board should consider including a note that explains where the application form under s. FD 1.12 may be found. Various types of application forms listed in ch. FD 1 provide information about where the forms may be found. [See ss. FD 1.02 (Note), and 1.08 (Note).] Also, the current s. FD 5.02 (Note) states where the application form is available for licensure under reciprocity.

d. It is unclear what kind of examination is required of an application for licensure under reciprocity. By combining licensure based upon reciprocity with other provisions related to examinations for licensure, it is unclear whether the applicant is required to take the examination under ss. FD 1.02 to 1.035, or a shorter examination that is just based upon Wisconsin jurisprudence for funeral directors. The Board should clarify what the examination mentioned in s. FD 1.12 (e) is, and the difference from the examination for initial licensure, if any.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Nilajah Hardin, Bureau Assistant		2) Date When Request Submitted: 02/09/16	
		Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Funeral Directors Examining Board			
4) Meeting Date: 02/23/16	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Administrative Updates Election of Officers Appointment of Liaisons and Delegation of Authority	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: The Board shall Elect Officers and have the Chair appoint Liaisons. The Board shall also complete delegations of authority as necessary.			
11) Authorization			
<i>Nilajah D. Hardin</i>		02/09/16	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

**FUNERAL DIRECTORS EXAMINING BOARD
2015 ELECTED BOARD MEMEBERS AND APPOINTMENT OF ASSIGNMENTS**

ELECTION OF OFFICERS

2015 OFFICER ELECTION RESULTS	
Board Chair	Thomas Bradley
Vice Chair	Eric Lengell
Secretary	Marla Michaelis

APPOINTMENT OF LIAISONS AND DELEGATED AUTHORITIES

2015 SCREENING PANEL APPOINTMENTS	
January -December 2015	Marc Eernisse, Thomas Bradley, Eric Lengell

2015 LIAISON APPOINTMENTS	
Credentialing Liaison	Marla Michaelis
DLSC (PAP/Monitoring)	Marla Michaelis

DELEGATION OF AUTHORITY

MOTION: Marc Eernisse moved, seconded by Dean Stensberg, that the Board delegates authority to the Chair, highest ranking officer, or longest serving member of the Board, to sign documents on behalf of the Board. In order to carry out duties of the Board, the Chair has the ability to delegate this signature authority to the Board’s Executive Director for purposes of facilitating the completion of assignments during or between meetings. Motion carried unanimously.

MOTION: Dean Stensberg moved, seconded by Marla Michaelis, in order to facilitate the completion of assignments between meetings, the Board delegates its authority by order of succession to the Chair, highest ranking officer, or longest serving member of the Board, to appoint liaisons to the Department to act in urgent matters, to fill vacant appointment positions, and to act when knowledge or experience in the profession is required to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

MOTION: Dean Stensberg moved, seconded by Marla Michaelis, to delegate authority to the Credentialing Liaison(s) to address all issues related to credentialing matters. Motion carried unanimously.

MOTION: Dean Stenberg moved, seconded by Marla Michaelis to adopt the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today's agenda packet. Motion carried unanimously.

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kelley Sankbeil Monitoring Supervisor Division of Legal Services and Compliance		2) Date When Request Submitted: January 9, 2016 Items will be considered late if submitted after 4:30 p.m. and less than: <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Funeral Directors Examining Board			
4) Meeting Date: February 23, 2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Delegation of Authority to Monitoring Liaison and Department Monitor	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Delegated Authority Motion: <p style="text-align: center;"><i>“_____ moved, seconded by _____ to adopt/reject the Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor document as presented in today’s agenda packet.”</i></p>			
11) Authorization January 9, 2016			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor

The Monitoring Liaison (“Liaison”) is a Board/Section designee who works with department monitors to enforce Board/Section orders as explained below.

Current Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent’s request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor (“Monitor”) will draft an order and sign on behalf of the Liaison.
2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.
3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.
4. Grant or deny approval when Respondent proposes continuing/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.
5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing education.
6. Grant a maximum of one extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.
7. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain the signature or written authorization from the Liaison.
- 8. Grant or deny a request to appear before the Board/Section in closed session.**

Current Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if CE is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.
2. Suspend the license if Respondent has not completed Board/Section-ordered CE and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof completion and/or payment have been received.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sandra Cleveland Administrative Rules Coordinator		2) Date When Request Submitted: February 10, 2016 Items will be considered late if submitted after 12:00 p.m. on the deadline date: ▪ 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Funeral Examiners Board			
4) Meeting Date: February 23, 2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislation and Rule Matters – Discussion and Consideration 1. Proposals for amending FD 1, 2 Relating to Education and Apprenticeships 2. Proposals for amending FD 4 Relating to Continuing Education Update on Legislation and Pending and Possible Rulemaking Projects	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Begin reviewing and amending FD 1, 2 relating to education and apprenticeships and FD 4 relating to continuing education for Funeral Directors.			
11) Authorization			
<i>Sandra Cleveland</i>		<i>February 10, 2016</i>	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Chapter FD 1

LICENSES AND PERMITS

FD 1.01	Authority and intent.
FD 1.02	Examination applications.
FD 1.03	Examination grade.
FD 1.035	Examination review.
FD 1.04	Two academic years of instruction.
FD 1.05	Mortuary school.

FD 1.06	Proof of academic training.
FD 1.07	Apprenticeship credit.
FD 1.08	Permits.
FD 1.09	Preparation rooms.
FD 1.10	Requirements for renewal; restoration of licenses.
FD 1.11	Renewal of Wisconsin licenses of out-of-state funeral directors.

Note: Chapter FDE 1 was renumbered chapter FD 1 under s. 13.93 (2m) (b) 1., Stats., Register, September, 1993, No. 453.

FD 1.01 Authority and intent. This chapter is adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 and 445.03, Stats., to clarify and establish licensure criteria for funeral directors and funeral establishments.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88.

FD 1.02 Examination applications. Applications for taking the examination for a funeral director must be on file at least 30 days before the date of the examination. The board may accept applications after the 30-day limit if the circumstances warrant such procedure.

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.01, Register, July, 1988, No. 391, eff. 8-1-88; am., Register, November, 1998, No. 515, eff. 12-1-98.

FD 1.03 Examination grade. (1) To pass the initial licensure examination each applicant shall receive a grade determined by the board to represent minimum competence to practice. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The release of grades or the issuance of a funeral director license may be denied if the board determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88; r. and recr., Register, November, 1998, No. 515, eff. 12-1-98.

FD 1.035 Examination review. (1) An applicant who fails the state board examination may request a review of that examination by filing a written request with the board within 30 days of the date on which the examination results were mailed.

(2) Examination reviews are by appointment only.

(3) The time for review shall be limited to 4 hours.

(4) An applicant may not be accompanied during the review by any person other than the proctor.

(5) An applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet and a copy of the master answer sheet.

(6) An applicant may review the examination in the presence of a proctor. An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(7) An applicant may not review the examination more than once.

History: Cr. Register, November, 1998, No. 515, eff. 12-1-98.

FD 1.04 Two academic years of instruction. To meet the requirements of 2 academic years of instruction specified in s. 445.045 (1) (d), Stats., an applicant must submit to the board an official transcript of courses from a college or university recognized by the north central association of colleges and secondary schools, showing that the applicant has completed at least the semester credit hours shown below in the following areas:

	Minimum Semester Credit Hours
(1) English & Speech	6
(2) Social Sciences such as:	12
(a) Psychology	
(b) History	
(c) Sociology	
(d) Political Science	
(e) Economics	
(3) Natural Sciences such as:	15
(a) Anatomy	
(b) Physiology	
(c) Chemistry	
(d) Microbiology	
(e) Biology	
(f) Bacteriology	
(4) Business Studies	13
(5) Electives	14
TOTAL —	60

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; r. and recr. (4), r. (5) and renum. (6) to be (5), Register, June, 1979, No. 282, eff. 7-1-79; am. Register, January, 1980, No. 289, eff. 2-1-80; renum. from FDE 2.03 and am., Register, July, 1988, No. 391, eff. 8-1-88.

FD 1.05 Mortuary school. The following shall be accepted as compliance with s. 445.045 (1) (e), Stats. The candidate shall have satisfactorily completed 9 months or more instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the American board of funeral service education or otherwise deemed to be equivalent by the funeral directors examining board.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.04 and am., Register, July, 1988, No. 391, eff. 8-1-88; correction made under s. 13.93 (2m) (b) 6., Stats., Register, December, 1989, No. 408.

FD 1.06 Proof of academic training. The following shall be accepted by the board as proof that the academic training requirements of s. 445.095 (1) (a), Stats., concerning registration as an apprentice funeral director or embalmer have been met: A signed statement by the registrar of any college or university recognized by the north central association of colleges and secondary

schools that the applicant has successfully completed one academic year of instruction in the college or university or has an equivalent education which will permit admission to the college or university with sophomore status.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; r. (2), Register, January, 1980, No. 289, eff. 2-1-80; renum. from FDE 2.05 and am., Register, July, 1988, No. 391, eff. 8-1-88.

FD 1.07 Apprenticeship credit. (1) An apprentice certified under s. 445.095 (1), Stats., shall be granted credit toward the term of his or her apprenticeship for a period of employment of no less than 40 hours in each of 2 consecutive weeks. However, credit for a shorter period of employment may be approved if an apprentice submits evidence satisfactory to the board that an exception be made.

(2) An apprentice may receive credit for no more than 9 embalming in any one quarter of his or her apprenticeship. At the conclusion of an apprenticeship, an apprentice shall have completed a total of 25 embalming.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83; renum. from FDE 2.135, Register, July, 1988, No. 391, eff. 8-1-88; **CR 01-063: renum. to be (1) and cr. (2), Register November 2001 No. 551, eff. 12-1-01.**

FD 1.08 Permits. (1) Before opening for business, and every 2 years thereafter, a funeral establishment operator shall obtain a permit from the board through application upon a form furnished by the board. An original permit may not be granted to an operator of a funeral establishment without an inspection. No permit may be granted to a funeral establishment which does not meet requirements in s. 445.01, Stats.

(2) Prior to granting a permit to a licensed funeral establishment following a change in ownership, the board shall review the application to determine if an inspection is necessary.

(3) A funeral establishment permit is not transferable from one premises to another or from one operator to another.

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; am. (1), renum. (2) to be (3) and am., cr. (2), Register, May, 1983, No. 329, eff. 6-1-83; cr. (4), Register, July, 1986, No. 367, eff. 8-1-86; renum. from FDE 2.10 and r. (4), Register, July, 1988, No. 391, eff. 8-1-88.

FD 1.09 Preparation rooms. (1) Every installation used for embalming operations must contain a floor area of not less than 100 square feet per embalming table and must be used solely for this purpose. It must be isolated by walls or adequate partitions. The walls and furniture must be constructed of material that is easily washed and disinfected. The installation must be equipped with hot and cold running water supply under pressure and in a quantity sufficient for the operations performed therein as well as for cleaning the room. Waste water must flow into the main sewer if available or into an adequate septic tank. Hand washing facilities should be easily accessible.

(2) All preparation rooms in funeral establishments must be equipped with adequate sanitary facilities so that no health hazards are produced as a result of embalming operations performed therein.

(3) All preparation rooms shall be equipped with a ventilating system capable of expelling gases or fumes to the outside at a point so as not to create a nuisance, and shall also be equipped with a

hard surface, metal or porcelain top embalming table, a set of essential embalming instruments and a supply of disinfectants.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88.

FD 1.10 Requirements for renewal; restoration of licenses. (1) To renew a funeral director license a licensee shall, by January 1 of each even-numbered year following initial licensure, provide all of the following to the board:

(a) An application for renewal on a form provided by the department.

(b) Evidence that the licensee has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. FD 4.03.

(c) A fee in the amount required under s. 440.08 (2) (a), Stats.

(2) A licensee who fails to meet the requirements of sub. (1) by the renewal date shall cease and desist from practicing as a funeral director. A licensee who fails to meet the requirements of sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her license may renew by furnishing the following to the board:

(a) An application for renewal on a form provided by the department.

(b) Evidence that the licensee has completed at least 15 hours of continuing education during the previous 2 year licensure period as required under s. 445.06, Stats., and s. FD 4.03.

(c) The renewal fee specified in s. 440.08 (2) (a) and (3) (a), Stats.

(3) A funeral director who files an application for renewal more than 5 years after the expiration date of his or her license may be reinstated by filing with the board an application and fees specified in s. 440.08 (2) and (3) (a), Stats. The board may also require demonstration of competence by various methods, including, but not limited to, written or oral examination, documentation of funeral directing work in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for an initial credential from the board.

(4) The time limitations prescribed in this section shall not include the service period of a funeral director as an active member of the U.S. armed forces.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; r. and recr. (1) and (2), am. (3), Register, November, 1998, No. 515, eff. 12-1-98.

FD 1.11 Renewal of Wisconsin licenses of out-of-state funeral directors. (1) INTENT. The intent of the board in adopting this section is to clarify the board's interpretation of s. 445.06, Stats., that a licensee seeking renewal of a funeral director's license who is doing business at a legally operating funeral establishment in a jurisdiction outside the state of Wisconsin and who meets all other requirements for license may obtain a funeral director's license.

(2) RECOGNIZED FUNERAL ESTABLISHMENT. For purposes of renewal of licenses under s. 445.06, Stats., "recognized funeral establishment" means any building or part of a building used and held out to the public as being used in the care and preparation for burial and transportation of dead human bodies or for holding or conducting of funeral services.

History: Renum. from FD 2.12 and am. (2), Register, November, 1998, No. 515, eff. 12-1-98.

Chapter FD 2

STANDARDS OF PRACTICE

<p>FD 2.01 Authority and intent. FD 2.02 Definitions. FD 2.03 Operation of a funeral establishment. FD 2.04 Discrimination. FD 2.05 Business telephone listings and advertising. FD 2.06 Supervision of apprentices.</p>	<p>FD 2.07 Changes in apprenticeship assignment. FD 2.08 Business practices. FD 2.09 Commission prohibited. FD 2.10 Sanitation. FD 2.11 Radioactive materials. FD 2.13 Confidentiality.</p>
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Note: Chapter FDE 2 was renumbered chapter FD 2 under s. 13.93 (2m) (b) 1., Stats., Register, September, 1993, No. 453.

FD 2.01 Authority and intent. This chapter is adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 and 445.03, Stats., and specifies the minimum standards of operation of funeral establishments and conduct of funeral directors under ch. 445, Stats.

Note: Funeral directors must comply with the standards adopted by the federal trade commission and set forth in 16 CFR 453.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.02 Definitions. As used in this chapter:

(1) "Funeral arrangements" means the provision of information or advice on selection and cost of merchandise, facilities, equipment or personal services provided for final disposition of a dead human body in the course of formulating a contractual agreement between a funeral director or funeral home and client.

(2) "Funeral services" means the ceremonies held in conjunction with disposition of the dead, including visitation, religious rites, memorials and graveside services.

(3) "Personal supervision" means immediate availability to continually coordinate, direct and inspect at first hand the practice of another.

(4) "Supervision" means regularly to coordinate, direct and inspect the practice of another.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88; correction in (1) made under s. 13.93 (2m) (b) 12., Stats., Register, September, 1993, No. 453; am. (1), Register, November, 1998, No. 515, eff. 12-1-98.

FD 2.03 Operation of a funeral establishment. Even though persons other than licensed funeral directors may own a funeral establishment:

(1) Funeral arrangements may be made only by licensed funeral directors; and

(2) Any other dealings on behalf of the establishment, including the conducting of funeral services, shall be performed only by or under the supervision of licensed funeral directors.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.04 Discrimination. No funeral director licensed in Wisconsin, or apprentice funeral director holding a certificate of apprenticeship in this state, or person holding a funeral establishment permit herein, shall deny services or the use of an establishment to any person because of race, color, creed, national origin or ancestry, HIV infection, or sexual orientation; provided, however, that this section shall not apply where a funeral establishment is, for religious reasons, so operated that its services are provided to members of only one religious faith.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.06 and am., Register, July, 1988, No. 391, eff. 8-1-88; am. Register, June, 1996, No. 486, eff. 7-1-96.

FD 2.05 Business telephone listings and advertising. (1) Each funeral establishment shall insure that only true funeral establishment names and addresses as registered with the funeral directors examining board shall appear in telephone listings or other publications and in advertising by any media whatsoever.

ever. A funeral establishment may list under a previous establishment name in a telephone or business directory, provided that the listing contains a reference to the establishment name currently registered with the board.

(2) If the names or pictures of unlicensed persons are used in any form of advertising for a funeral establishment, the advertisement must distinguish between the Wisconsin licensed funeral director and the non-licensed personnel.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.16 and am., Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.06 Supervision of apprentices. (1) Apprentices may engage in the following activities only when under the personal supervision of a licensed funeral director: embalming and other preparing of dead human bodies for burial or transportation, and making funeral arrangements.

(2) Apprentices may conduct funeral services or make removals of bodies under the supervision of a licensed funeral director.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.07 Changes in apprenticeship assignment. (1) Whenever any licensed funeral director discharges an apprentice the funeral director shall within 5 days notify in writing the funeral directors examining board, giving the name and address of the apprentice, and the date of discharge.

(2) Whenever any apprentice leaves his or her apprenticeship at a funeral establishment, the funeral director and apprentice shall within 5 days notify in writing the funeral directors examining board, giving the name and address of the apprentice and date of the apprentice leaving the apprenticeship.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; (1) renum. from FDE 2.13 and am., cr. (2), Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.08 Business practices. (1) Each funeral establishment shall offer a broad range of personal services, caskets, merchandise and prices consistent with the needs and desires of the families in the community. Records documenting these needs and desires shall be available for review by the board.

(2) If a funeral director offers package funerals, the funeral director shall provide the consumer with a comparison between the package price and the total cost, calculated on an itemized basis, of the components actually desired by the consumer.

History: Cr. (2), (1) renum. from FDE 2.15 (3) and am., Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.09 Commission prohibited. Except as provided in s. 445.125 (3m), Stats., paying or accepting a commission or a salary based upon the selling price or number of funeral services sold shall be considered unethical and is therefore prohibited.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.12, Register, July, 1988, No. 391, eff. 8-1-88; am., Register, November, 1998, No. 515, eff. 12-1-98.

FD 2.10 Sanitation. (1) All preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in a clean and sanitary condition.

(2) All post-mortem procedures shall be performed and all preparation rooms, equipment, instruments and supplies in

funeral establishments shall be maintained in compliance with the terms and conditions set forth in the United States occupational safety and health administration standard for occupational exposure to blood-borne pathogens under 29 CFR 1910.1030. In cases of HIV infection, after the body has been prepared in accordance with s. DHS 136.04, the usual and customary procedures may be followed for restoration and cosmetology. Following embalming and body preparation, no special precautions need to be observed during visitation.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88; r. and recr. (2), r. (3), Register, June, 1996, No. 486, eff. 7-1-96; am. (2), Register, November, 1998, No. 515, eff. 12-1-98; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register January 2011 No. 661.

FD 2.11 Radioactive materials. A funeral director or embalmer who takes possession of a dead human body which might possibly contain radioisotope must take all necessary steps to protect the members of the staff who are called upon to handle the body.

History: Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.17 and am., Register, July, 1988, No. 391, eff. 8-1-88.

FD 2.13 Confidentiality. All personnel involved in the post-mortem care of the deceased shall be informed of the confidentiality provisions under s. 252.15 (3m), Stats., and the consequences of violating these confidentiality provisions.

History: Cr. Register, June, 1996, No. 486, eff. 7-1-96; correction made under s. 13.92 (4) (b) 7., Stats., Register January 2011 No. 661.

Chapter FD 4

CONTINUING EDUCATION REQUIREMENTS

FD 4.01	Authority.
FD 4.02	Definitions.
FD 4.03	Continuing education.

FD 4.04	Approval of continuing education programs.
FD 4.045	Qualifications for continuing education instructors.
FD 4.05	Exemption.

Note: Chapter FDE 5 was renumbered chapter FDE 4 under s. 13.93 (2m) (b) 1., Stats., Register, July, 1988, No. 391, eff. 8-1-88. Chapter FDE 4 was renumbered chapter FD 4 under s. 13.93 (2m) (b) 1., Stats., Register, September, 1993, No. 453.

FD 4.01 Authority. The rules in this chapter are adopted under authority in ss. 15.08 (5) (b), 227.11 and 445.06, Stats.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; correction made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1993, No. 453.

FD 4.02 Definitions. In this chapter,

- (1) "Board" means the funeral directors examining board.
- (2) "Evidence of attendance" means an official transcript, student grade report or a written form furnished by a program provider which specifies satisfactory completion of a continuing education program.
- (3) "Funeral director" means a person as defined in s. 445.01 (5), Stats.
- (4) "Program provider" means an educational institution, governmental agency, professional or trade association or foundation or a private firm or individual whose primary function is continuing education.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86.

FD 4.03 Continuing education. (1) Every funeral director, as defined in s. 445.01 (5), Stats., shall complete at least 15 hours of approved continuing education programs in each biennial registration period, specified under s. 445.06, Stats., except as described in s. FD 4.05.

(2) Approved continuing education hours may apply only to the biennial registration period in which the hours are acquired.

(3) To obtain credit for completion of the continuing education requirement, a funeral director shall submit certificates of attendance issued by the program provider or other evidence of attendance satisfactory to the board.

(4) At least 3 hours of the 15-hour requirement shall be in approved programs in the subject area specified in s. FD 4.04 (1) (a) 2.

(4m) At least 3 hours of the 15-hour requirement shall be in each of the subject areas specified in s. FD 4.04 (1) (a) 1. to 4.

(5) No more than 7 hours of all of the 15-hour requirement may be in approved programs in s. FD 4.04 (7).

(6) No more than 2 hours of the 15-hour requirement may be acquired for presentation of any continuing education program by a funeral director.

(7) No more than 10 hours of the 15-hour requirement may be acquired through participation in non-contact home study programs.

(8) Each contact or clock hour or lesson or tape completed in a home study program is equivalent to 1.0 continuing education credit hour.

(9) Continuing education credit for participation in a multiple-day program, in which each day of the program is a prerequisite for each succeeding day, shall be granted only for completion of the entire program.

(10) A funeral director may receive credit for attendance at a continuing education program which received approval after he

or she attended the program, if the funeral director provides evidence of attendance satisfactory to the board.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; am. (7), Register, November, 1998, No. 515, eff. 12-1-98; CR 01-063: cr. (4m) and am. (5), Register November 2001 No. 551, eff. 12-1-01.

FD 4.04 Approval of continuing education programs. (1) Except as provided in sub. (8), to obtain approval of a continuing education program, the program provider shall submit an application to the board on a form provided by the board which shall include:

(a) The program relates to one or more of the following subject content areas:

1. Grief counseling or communication.
2. Professional conduct, business ethics or legal aspects specifically related to practice in the profession.
3. Business management concepts relating specifically to delivery of services to a consumer.
4. Technical or practical aspects of the profession;

(b) The program is available to all funeral directors regardless of membership in or affiliation with any organization; and,

(c) The program provider of the continuing education program agrees to monitor the continuous attendance of participants and to furnish to each participant evidence of having attended and completed the program at the location of the program, or

(d) The program provider of a home-study continuing education program includes in the program a method satisfactory to the board of determining a participant's successful completion of the home study program.

(2) An application for a continuing education program shall include all of the following:

- (a) Date and location of the program.
- (b) Time segments scheduled in the program for presentation of subject areas specified in sub. (2).
- (c) Name and title of the instructor.
- (d) Name and title of the person requesting program approval on behalf of the provider.

Note: Forms are available upon request to the board office, PO Box 8935, Madison, WI 53708.

(3) A separate application shall be submitted for each continuing education program. Approval of a continuing education program expires on December 31 of each odd-numbered year.

(4) A program provider shall apply for approval of a continuing education program at least 30 days prior to its presentation.

(5) A continuing education program may include subject content other than that specified in sub. (1); however, the board shall limit its approval only to that part and time segments of the program which relate to subject areas specified in sub. (1).

(6) A home study program or course taken for academic credit shall be eligible for credit if the program or course relates to subject areas specified in sub. (1) and meets all other requirements in this section.

(7) In-service continuing education programs sponsored by a funeral establishment are not eligible for credit unless the programs are available to all licensed funeral directors and meet all other requirements in this section.

(8) A continuing education course sponsored by a national, international or state funeral director's association, or an educational institution accredited by the American Board of Funeral Service Education or otherwise deemed to be equivalent by the board, which satisfies the criteria established in sub. (1) (a) to (d) and s. FD 4.045, shall be approved by the board without receipt of a course approval application from the program provider.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86; correction in (6) made under s. 13.93 (2m) (b) 12., Stats., Register, September, 1993, No. 453; am. (2) (intro.), Register, November, 1998, No. 515, eff. 12-1-98; CR 07-049: am. (1) (intro.), cr. (8) Register March 2008 No. 627, eff. 4-1-08; correction in (8) made under s. 13.92 (4) (b) 7., Stats., Register March 2008 No. 627.

FD 4.045 Qualifications for continuing education instructors. Instructors for continuing education shall possess one of the following minimum qualifications:

(1) Be an instructor of funeral directing who is or has been engaged in the practice of teaching at an accredited institution of

higher education.

(2) Be a properly licensed or certified person for the 5 years immediately before becoming a continuing education instructor.

(3) Be a person who, in the judgment of the board, is qualified by experience or education, or both, to supervise a course of study.

History: CR 01-063: Cr. Register November 2001 No. 551, eff. 12-1-01.

FD 4.05 Exemption. Any funeral director who holds a certificate in good standing granted under s. 445.06, Stats., shall be exempt from meeting the continuing education requirement for the duration of the period that the funeral director is not engaged in professional practice. A funeral director who holds a certificate shall notify the board and shall submit proof of having completed 15 hours of approved continuing education programs in the 2-year period immediately preceding notification to the board of his or her intent to return to professional practice in a licensed funeral establishment.

History: Cr. Register, July, 1986, No. 367, eff. 8-1-86.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Samantha Weishan Bureau Assistant		2) Date When Request Submitted: 02/17/2016 Items will be considered late if submitted after 4:30 p.m. and less than:	
3) Name of Board, Committee, Council, Sections: Funeral Directors Examining Board			
4) Meeting Date: 02/23/2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Credentialing Matters 1) Apprenticeship 2) Funeral Establishment Licenses	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Legal Counsel will provide clarification regarding apprenticeship and answer questions			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Executive Assistant prior to the start of a meeting.			

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4) Meeting Date: 02/23/2016	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Education and Examination Matters 1) Continuing Education Audit Request	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required: N/A	
10) Describe the issue and action that should be addressed: Staff will provide information regarding CE audit process. The Board may request an audit.			
11) Authorization			
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda) Date			
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