



FUNERAL DIRECTORS EXAMINING BOARD
Room 121C, 1400 East Washington Avenue, Madison
Contact: Dan Williams (608) 266-2112
June 28, 2018

The following agenda describes the issues that the 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 Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of February 20, 2018 (4-7)

C. Administrative Updates

1. Staff Updates
2. Department Updates
3. Board Members – Term Expiration Dates
 - a. Aziz Al-Sager – 7/1/2018
 - b. Bruce Carlson – 7/1/2019
 - c. Marc Eernisse – 7/1/2022 (*reappointed, not yet confirmed*)
 - d. Eric Lengell – 7/1/2016
 - e. Marla Michaelis – 7/1/2021 (*reappointed, not yet confirmed*)
 - f. Vacant – Public Member

D. Legislative and Administrative Rule Matters – Discussion and Consideration (8-23)

1. Adoption of FD 1 (CR 17-49), Relating to Academic Instruction Requirements for Funeral Directors, Apprentices, and Reporting and Renewal Requirements for Apprentices
2. Adoption of FD 4 (CR 17-48), Relating to Continuing Education Requirements for Funeral Directors
3. Discuss Draft FD 1 to 4 and 6, Relating to Funeral Director Apprenticeship Requirements
4. Updates on Legislation and Pending or Possible Rulemaking Projects

E. APPEARANCE: Deliberation of Inspections Following a Change in Ownership – Discussion and Consideration – Nate Ristow (24-25)

F. 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)

G. 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.).

H. Deliberation of Division of Legal Services and Compliance (DLSC) Matters

1. **Proposed Stipulations, Final Decisions, and Orders**
 - a. 16 FDR 025 – Steven R. Mitchell and Thompson Funeral Home **(26-31)**
 - b. 17 FDR 001 – Thor J. Thorson and Thorson Funeral Home **(32-38)**
 - c. 17 FDR 024 – John M. Leszczynski **(39-44)**
2. **Case Closings**
 - a. 17 FDR 019 – D.W.C. **(45-47)**
 - b. 17 FDR 021 – N.D. **(48-51)**
 - c. 17 FDR 022 – D.D. **(52-56)**
 - d. 17 FDR 023 – M.K. **(57-60)**
 - e. 17 FDR 030 – J.O. **(61-63)**

I. Consulting with Legal Counsel

J. Deliberation of Items Added After Preparation of the Agenda

1. Education and Examination Matters
2. Credentialing Matters
3. Disciplinary Matters
4. Monitoring Matters
5. Professional Assistance Procedure (PAP) Matters
6. Petitions for Summary Suspensions
7. Petitions for Designation of Hearing Examiner
8. Proposed Stipulations, Final Decisions and Order

9. Administrative Warnings
10. Review of Administrative Warnings
11. Proposed Final Decision and Orders
12. Matters Relating to Costs/ Orders Fixing Costs
13. Case Closings
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 TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

K. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

L. Open Session Items Noticed Above Not Completed in the Initial Open Session

M. Board Meeting Process (Time Allocation, Agenda Items) – Discussion and Consideration

ADJOURNMENT

NEXT MEETING DATE: JULY 31, 2018

MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED
WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 1400 East Washington Avenue, Madison, Wisconsin, unless otherwise noted. In order to confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Interpreters for the hearing impaired provided upon request by contacting the Affirmative Action Officer, 608-266-2112.

**FUNERAL DIRECTORS EXAMINING BOARD
MEETING MINUTES
February 20, 2018**

PRESENT: Aziz Al-Sager, D. Bruce Carlson, Marc Eernisse, Eric Lengell, Marla Michaelis

STAFF: Dan Williams, Executive Director; Laura Smith, Bureau Assistant; and other Department Staff

Marc Eernisse, Chair, called the meeting to order at 9:30 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

MOTION: Aziz Al-Sager moved, seconded by Marla Michaelis, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES

MOTION: Aziz Al-Sager moved, seconded by Marla Michaelis, to approve the minutes of November 28, 2017 as published. Motion carried unanimously.

ADMINISTRATIVE UPDATES

Election of Officers

Slate of Officers

NOMINATION: Aziz Al-Sager nominated the 2017 slate of officers to continue in 2018.

Dan Williams called for nominations three (3) times.

Nomination carried by unanimous consent.

The 2017 Slate of Officers was reelected to continue in 2018.

2018 ELECTION RESULTS	
Board Chair	Marc Eernisse
Vice Chair	Marla Michaelis
Secretary	Eric Lengell

Liaison Appointments

2018 LIAISON APPOINTMENTS	
Credentialing Liaison	Marla Michaelis
Monitoring and Professional Assistance Procedure (PAP) Liaison	Aziz Al-Sager
Screening Panel	D. Bruce Carlson, Eric Lengell, Aziz Al-Sager

MOTION: Aziz Al-Sager moved, seconded by Eric Lengell, to affirm the Chair's appointment of liaisons for 2018. Motion carried unanimously.

Delegation of Authorities

Delegated Authority for Urgent Matters

MOTION: D. Bruce Carlson moved, seconded by Aziz Al-Sager, that, in order to facilitate the completion of assignments between meetings, the Board delegates its authority to the Chair to appoint liaisons to carry out the duties of the Board in accordance with the law. Motion carried unanimously.

Document Signature Delegation

MOTION: D. Bruce Carlson moved, seconded by Aziz Al-Sager, the Board delegates authority to the Chair 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.

Credentialing Authority Delegations

MOTION: D. Bruce Carlson moved, seconded by Aziz Al-Sager, to delegate authority to the Credentialing Liaison to address all issues related to credentialing matters. Motion carried unanimously.

Monitoring Delegations

MOTION: D. Bruce Carlson moved, seconded by Aziz Al-Sager, to adopt the 'Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor' document as presented. Motion carried unanimously.

Delegated Authority for Application Denial Reviews

MOTION: D. Bruce Carlson moved, seconded by Aziz Al-Sager, that the Board counsel or another department attorney is formally authorized to serve as the Board's designee for purposes of Wis. Admin Code § SPS 1.08(1). Motion carried unanimously.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

FD 1 Relating to Funeral Director Licensure and the Apprenticeship Process

MOTION: Marla Michaelis moved, seconded by Eric Lengell to authorize the Department to revise the current administrative rule draft of FD 1 by removing information related to Funeral Director apprenticeships and to allow the Chair to approve the changes to the rule draft for submission to the Governor's office and the legislature. Motion carried unanimously.

Update on Legislation, Including AB 837 and SB 724, and Possible Rulemaking Projects

MOTION: Aziz Al-Sager moved, seconded by Marla Michaelis to authorize the Department to begin drafting a scope statement for an emergency rule upon passage of either Assembly Bill 837 or Senate Bill 724 and to allow the Chair to approve the emergency rule scope statement for submission to the Governor's office, publication, and designate the Chair to authorize the scope for implementation. Motion carried unanimously.

CLOSED SESSION

MOTION: Aziz Al-Sager moved, seconded by Marla Michaelis, to 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 investigation with administrative warning (s. 19.85(1)(b), Stats. 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.). The Chair read aloud the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Aziz Al-Sager – yes; D. Bruce Carlson – yes; Marc Eernisse – yes; Eric Lengell – yes; and Marla Michaelis – yes. Motion carried unanimously.

The Board convened into Closed Session at 11:09 a.m.

At this time, all external communication contacts will be terminated for purposes of going into Closed Session.

RECONVENE TO OPEN SESSION

MOTION: Aziz Al-Sager moved, seconded by Marla Michaelis, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:31 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Marla Michaelis moved, seconded by Aziz Al-Sager to affirm all motions made and votes taken in closed session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

DELIBERATION ON DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Case Closings

16 FDR 003 (C and C.F.S, T.P., J.M.L., K.U.)

MOTION: Aziz Al-Sager moved, seconded by Marla Michaelis, to close DLSC Case No. 16 FDR 003, against J.M.L. for Prosecutorial Discretion (P5), against T.P. and C. and C.F.S. for No Violation, and against K.U. for Insufficient Evidence. Motion carried unanimously.

17 FDR 002

MOTION: Aziz Al-Sager moved, seconded by Eric Lengell, to close DLSC Case No. 17 FDR 002 for Prosecutorial Discretion (P6). Motion carried unanimously.

17 FDR 005

MOTION: Aziz Al-Sager moved, seconded by D. Bruce Carlson, to close DLSC Case No. 17 FDR 005 for Insufficient Evidence, and to request that communications from DLSC to the respondent include the language of FD 3.02(7) and 3.02(10). Motion carried unanimously.

ADJOURNMENT

MOTION: D. Bruce Carlson moved, seconded by Aziz Al-Sager, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:37 a.m.

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Greg DiMiceli Administrative Rules Coordinator		2) Date When Request Submitted: June 19, 2017	
		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: June 28, 2017	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? <ol style="list-style-type: none"> 1. Adoption of FD 1 (CR 17-49), relating to academic instruction requirements for funeral directors, apprentices, and reporting and renewal requirements for apprentices. 2. Adoption of FD 4 (CR 17-48), relating to continuing education requirements for funeral directors. 3. Discuss draft FD 1 to 4, and 6, relating to relating to funeral director apprenticeship requirements. 4. Update on pending and possible rulemaking projects 	
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 (<u>Fill out Board Appearance Request</u>) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:
10) Describe the issue and action that should be addressed: Review, discuss, and adopt FD 1 (CR 17-49) and FD 4 (CR 17-48). Discuss the preliminary draft, FD 1 to 4, 6. This draft will be reviewed with the Board. The Board should provide additional draft input and any further drafting instructions.			
11) Signature of person making this request Greg DiMiceli		Authorization <div style="border-top: 1px solid black; width: 100%;"></div>	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)			
Date			
Directions for including supporting documents: <ol style="list-style-type: none"> 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	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS EXAMINING BOARD
FUNERAL DIRECTORS EXAMINING BOARD :		ADOPTING RULES
	:	(CLEARINGHOUSE RULE 17-049)

ORDER

An order of the Wisconsin Funeral Directors Examining Board to repeal FD 1.07; to renumber FD 2.06, and FD 2.07 (1) and (2); to amend FD 1.04; to repeal and recreate FD 1.06; and to create FD 1.065, FD 1.066, FD 1.067, FD 1.068, and FD 1.076, relating to academic instruction requirements for funeral directors, apprentices, and reporting and renewal requirements for apprentices.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 445.095 and 445.10, Stats.

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

Explanation of board authority:

Section 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.

Section 445.03 (2) (a), Stats., allows examining boards to 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 statute or rule:

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.

Plain language analysis:

This rule changes academic instruction requirements for funeral directors and apprentices and provides administrative guidance for the apprenticeship process.

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

Federal regulations do not govern licensing requirements for funeral directors.

Comparison with rules in adjacent states:

Illinois: Illinois requires 30 semester hours of college credit plus Mortuary College or associate or bachelor's degree in mortuary science. Illinois has a funeral director internship which is considered a one-year apprenticeship. Interns must complete at least 24 funerals, and at least 24 preparations and embalmings. The intern must submit a report for each of the 24 funerals and each 24 body preparations. Reports are filed every three months.

Iowa: Iowa requires a student to have a minimum of 60 semester hours as indicated on the transcript from a regionally accredited college or university with a minimum of 2.0 or "C" grade point and a course in mortuary science from a school accredited by the American Board of funeral Service Education. The 60 semester hours does not include any technical or vocational mortuary science courses. Iowa has a one-year funeral director internship program. Interns must perform 25 embalmings and assist in 25 funerals. Interns must report to the state at 6 months and again at 12 months.

Michigan: Applicants in Michigan for mortuary science licenses are required to have completed not less than 60 semester hours or 90 quarter hours. Michigan's program allows for a resident trainee. A resident trainee must complete a list of requirements which includes 25 embalmings. A residency is for one year and can be renewed up to two times. Reporting is required on a six-month interval.

Minnesota: Minnesota requires a Bachelor of Science degree with a major in mortuary science received from an accredited school. Minnesota has an internship program. The internship can last between one and three years. A total of 25 embalmings and 25 funerals must be completed which is documented upon completion.

Summary of factual data and analytical methodologies:

The continuing education requirements for funeral directors has not been updated since 1988. The current rules contain out-of-date provisions which are creating hardships for applicants and are not reflective of the current status of the profession. Similarly, funeral director apprenticeship rules have not been reviewed or updated in 15 years. The Board would like to ensure that the provisions are in compliance with statutes and reflect the requirements of the profession in order to help facilitate the entrance of new funeral directors into the profession.

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 do not 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 Kirsten.Reader@Wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Greg DiMiceli, Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments shall be received on or before August 1, 2017, to be included in the record of rule-making proceedings.

TEXT OF RULE

Section 1. FD 1.04 is amended to read:

FD 1.04 To meet the requirements of 2 academic years of instruction specified in s. 445.045 (1) (d), Stats., an applicant shall 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,~~ regionally accredited college showing that the applicant has completed ~~at least the~~ a course of study with 60 semester credit hours ~~shown below~~ in the following areas:

	<u>Minimum Semester Credit Hours</u>
(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

- (1) English
- (2) Speech
- (3) Social Sciences
- (4) Natural Sciences
- (5) Business Studies
- (6) Electives

Section 2. FD 1.06 is repealed.

Section 3. FD 1.07 is repealed.

Section 4. FD 2.06 is renumbered FD 1.075.

Section 5. FD 2.07 (1) and (2) are renumbered FD 1.065 (1) and (2)

Section 6. 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)

Dated _____

Agency _____

Chair,
Funeral Director Examining Board

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULE-MAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS EXAMINING BOARD
FUNERAL DIRECTORS EXAMINING BOARD :	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 17-048)

ORDER

An order of the Wisconsin Funeral Directors Examining Board to renumber and amend FD 4.04 (1) (c) and (d); to amend FD 4.03 (6), (7), (8), FD 4.04 (1) (intro.), FD 4.04 (1) (intro.), (a) 4., and (b), FD 4.04 (6); and to create FD 4.02 (3m) and (3n), FD 4.03 (6m), FD 4.03 (11), FD 4.04 (1) (c) (intro.), and FD 4.06, relating to continuing education requirements for funeral directors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 445.03 (2) (a), 445.06, and 440.075, Stats.

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

Explanation of board authority:

Section 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.

Section 445.03 (2)(a), Stats., allows examining boards to 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 statute or rule:

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., 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.

Plain language analysis:

Under s. 445.06, Stats., every funeral director is required to complete at least 15 hours of continuing education during each two-year licensure period, except that new licensees are

exempt from this requirement during the time between initial licensure and commencement of a full two-year licensure period.

FD 4 adds definitions and updates terminology to reflect changes in continuing education delivery methods. The rule also establishes qualifications for continuing education instructors and allows continuing education credit for funeral directors if they serve on the Funeral Directors Examining Board or engage in other professional activities. This rule also allows for an audit of the funeral director continuing education requirements.

The primary goal of this rule revision is to modernize the rule. Many of the provisions in the rule were first established in 1986 and have not been substantially revised since then. Terminologies, particularly regarding continuing education programs, do not accommodate new methods of delivering continuing education content.

This rule is not likely to have a significant economic impact on small businesses.

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

Federal regulations do not govern continuing education requirements for funeral directors.

Comparison with rules in adjacent states:

Illinois: In Illinois every funeral director must complete 24 hours of continuing education for each two year licensure period. For the 2015 and 2017 renewals, the 24 hours must include a minimum of 6 hours related to the practice of funeral directing and a minimum of 6 hours related to the practice of embalming. Beginning with the 2019 renewal, the 24 hours must include a minimum of 9 hours related to the practice of funeral directing and a minimum of 9 hours related to the practice of embalming. No more than 6 hours may consist of insurance courses.

Iowa: Iowa requires 24 hours of continuing education per two years of licensure.

Michigan: Michigan has no continuing education requirements.

Minnesota: Minnesota requires 12 hours of continuing education per two years of licensure.

Summary of factual data and analytical methodologies:

This rule was developed following a review of other Midwestern state policies along with multiple meetings and direct input from members of the Funeral Directors Examining Board. The Funeral Directors Examining Board reviewed the rule and statutory requirements and provided input throughout the drafting process.

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

The department posted this 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 do not 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 Kirsten.Reader@Wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Greg DiMiceli, Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments shall be received on or before August 1, 2017, to be included in the record of rule-making proceedings.

TEXT OF RULE

Section 1. FD 4.02 (3m) and (3n) are created to read:

FD 4.02 (3m) “In-service” means continuing education approved by the board that is provided by a licensed funeral director to staff of the funeral director’s funeral establishment and is available to all funeral directors.

(3n) “Professional activity” means any of the following:

- (a) Serving on the Funeral Directors Examining Board.
- (b) Serving on the Milwaukee Area Technical College Funeral Services Advisory Committee.
- (c) Serving on the National Funeral Director committee or board.
- (d) Serving on the state, district board, or committee of the Wisconsin Funeral Director Association.
- (e) Serving on the Funeral Service Alliance committee or board.
- (f) Serving on the American Board of Funeral Education committee or board.
- (g) Serving on the Order of the Golden Rule committee or board.
- (h) Serving on the National Selection of Morticians committee or board.

Section 2. FD 4.03 (6) is repealed and recreated to read:

FD 4.03 (6) Continuing education credit may be granted for teaching or presenting any continuing education programs or courses under s. FD 4.04 (1) (a) 1. to 4. No credit will be granted for any subsequent presentations of the same program or course. A teacher or presenter may receive 2 continuing education credits for each hour of presentation.

Section 3. FD 4.03 (6m) is created to read:

FD 4.03 (6m) Two credit hours of continuing education may be granted for one hour of professional activity with a maximum of 6 credit hours of continuing education per biennial registration period for professional activity.

Section 4. FD 4.03 (7) and (8) are amended to read:

FD 4.03 (7) No more than 10 hours of the 15-hour requirement may be acquired through participation in ~~non-contact home study~~ board-approved online programs ~~that have been approved by the board.~~

(8) Each contact or clock hour or lesson ~~or tape~~ completed in a ~~home study~~ board-approved online program ~~that has been approved by the board~~ is equivalent to 1.0 continuing education credit hour.

Section 5. FD 4.03 (11) is created to read:

FD 4.03 (11) The board may count any relevant instruction obtained in connection with military service, as defined in s. 111.32 (12g), Stats., toward satisfying up to 15 hours of continuing education credits per biennial registration period.

Section 6. FD 4.04 (1) (intro.), (a) 4., and (b) are amended to read:

FD 4.04 (1) (intro.) 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~~ ∴ To be approved by the board, a continuing education program shall meet all of the following criteria:

(a) 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, ∴

Section 7. FD 4.04 (1) (c) (intro.) is created to read:

FD 4.04 (1) (c) (intro.) The program provider does one of the following:

Section 8. FD 4.04 (1) (c) and (d) are renumbered FD 4.04 (1) (c) 1. and 2. and amended to read:

FD 4.04 (1) (c) 1. 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,~~

2. The program provider of a ~~home-study~~ board-approved online continuing education program includes in the program a method satisfactory to the board of determining a participant's successful completion of the ~~home-study~~ approved online program.

Section 9. FD 4.04 (6) is amended to read:

FD 4.04 (6) A ~~home-study~~ board-approved online 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.

Section 10. FD 4.06 is created to read:

FD 4.06 Audit. The board may conduct a continuing education audit on any licensee who has received a complaint against the credential holder.

Section 11. **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)

This Proposed Order of the Funeral Director Examining Board is approved for submission to the Governor and Legislature.

Dated _____

Agency _____

Chair,
Funeral Director Examining Board

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS
FUNERAL DIRECTORS EXAMINING	:	EXAMINING BOARD
BOARD	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 055-18, was approved by the Governor on May 18, 2018, published in Register 749B on May 29, 2018, and approved by the Funeral Directors Examining Board on April 18, 2018.

ORDER

An emergency order of the Funeral Directors Examining Board to repeal FD 6.02 (2) and (3); to renumber FD 2.02 (3), (4), and 4.02 (1), (3); to amend FD 1.01, 1.02 (4), 1.02 (5), and 1.08 (note); and to create FD 1.013 (intro.), 1.015 (intro.), 1.015 (1), 1.055, 1.075 (3), 1.075 (4), and 1.075 (5), 1.076, 1.077, and 3.015, relating to funeral director apprenticeship requirements.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Funeral Director Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare.

The Legislature passed 2017 Wisconsin Act 304 changing the requirement for funeral director apprentices. Section 12 of 2017 Act 304 delayed implementation of the statutory changes until November 1, 2018. This emergency rule is necessary to coincide with the effective date of 2017 Act 304 and avoid confusion and disruption of funeral director apprenticeships as a result of implementation of Act 304.

ANALYSIS

Statutes interpreted: Sections 445.095 and 445.10, Stats.

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

Explanation of board authority:

Section 15.08 (5) (b), Stats. Each examining board “[s]hall 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.”

Section 445.03 (2) (a), Stats., allows the examining board to “[m]ake 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 statute or rule:

Wisconsin funeral director licensing and apprenticeship requirements are found in ch. 445, Stats., the administrative code in chs. FD 1 to 4 and FD 6, and DSPS administrative code chs. SPS 1 to 9, which outlines the administrative procedures for issuing licenses.

Plain language analysis:

This rule amends the funeral director apprenticeship requirements and makes them consistent with changes provided in 2017 Wisconsin Act 304.

After completing the required nine months of instruction in mortuary science, this rule requires an applicant for a funeral director’s license to complete a 16-hour certification course, rather than completing one year of college work or equivalent education.

This rule allows the Board to recognize two funeral director apprentices for each funeral establishment and also recognize additional funeral director apprentices as long as the funeral home employs at least one full-time licensed funeral director per funeral director apprentice.

This rule specifies that when an apprentice is in the preparation room the apprentice must be within the supervising funeral director’s line of sight.

Finally, this rule establishes that the Board must continue an apprenticeship for another four-year term after the registration or extension expires if the apprentice successfully retakes the 16-hour Board approved certification course.

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

Federal regulations do not govern requirements for funeral director apprentices.

Comparison with rules in adjacent states:

Illinois: Illinois requires 30 semester hours of college credit plus Mortuary College or associate or bachelor's degree in mortuary science. Illinois has a funeral director internship which is considered a one-year apprenticeship. Interns must complete at least 24 funerals, and at least 24 preparations and embalmings. The intern must submit a report for each of the 24 funerals and each 24 body preparations. Reports are filed every three months.

Iowa: Iowa requires a student to have a minimum of 60 semester hours as indicated on the transcript from a regionally accredited college or university with a minimum of 2.0 or "C" grade point and a course in mortuary science from a school accredited by the American Board of Funeral Service Education. The 60 semester hours does not include any technical or vocational mortuary science courses. Iowa has a one-year funeral director internship program. Interns must

perform 25 embalmings and assist in 25 funerals. Interns must report to the state at 6 months and again at 12 months.

Michigan: Applicants in Michigan for mortuary science licenses are required to have completed not less than 60 semester hours or 90 quarter hours. Michigan's program allows for a resident trainee. A resident trainee must complete a list of requirements which includes 25 embalmings. A residency is for one year and can be renewed up to two times. Reporting is required on a six-month interval.

Minnesota: Minnesota requires a Bachelor of Science degree with a major in mortuary science received from an accredited school. Minnesota has an internship program. The internship can last between one and three years. A total of 25 embalmings and 25 funerals must be completed which is documented upon completion.

Summary of factual data and analytical methodologies:

Funeral director apprenticeship rules were recently updated. Subsequent to that code update the Legislature made statutory changes to the apprenticeship program through 2017 Wisconsin Act 304. This change in the administrative code reflects the legislative changes made through Act 304. This rule has been reviewed by the Wisconsin Funeral Directors Examining Board and other stakeholder groups.

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

A fiscal estimate will be prepared.

Fiscal Estimate:

These rules are not anticipated to have a fiscal impact.

Effect on small business:

These proposed rules do not 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 Kirsten.Reader@Wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these rules is conducted. Information as to the place, date, and time of the public hearing will be published on the

Department of Safety and Professional Services' website and in the Wisconsin Administrative Register.

TEXT OF RULE

Section 1. FD 1.01 is amended to read:

FD 1.01. Authority and intent. This chapter is adopted pursuant to authority of ss. 15.08 (5) (b), 227.11, 440.08 (3) (b), and 445.03, Stats., to clarify and establish licensure criteria for funeral directors, funeral director apprentices, and funeral establishments.

Section 2. FD 1.013, (intro.) is created to read:

FD 1.013 Definitions. As used in chs. FD 1 to 4 and FD 6:

Section 3. FD 1.015 (intro.) and (1) are created to read:

FD 1.015 Definitions. As used in this chapter:

(1) "Applicant" means any person who applies for a license from the board.

Section 4. FD 1.055 is created to read:

FD 1.055 Certification course. In addition to s. FD 1.05, the applicant must provide evidence of completion of a 16-hour certification class approved by the board.

Section 5. FD 1.02 (4) and (5) are amended to read:

FD 1.02 (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~~ a 16-hour certification class approved by the board.

FD 1.02 (5). Evidence of completion of 1 year of apprenticeship under s. 445.095, Stats. and s. FD 1.077.

Section 6. FD 1.05 is amended to read:

FD 1.05 Mortuary school. ~~The~~ After completing a 16-hour certification class approved by the board 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~~ American Board of Funeral Service Education or otherwise deemed to be equivalent by the funeral directors examining board.

Section 8. FD 1.075 (3), (4), and (5) are created to read:

FD 1.075 (3). Under this section, when an apprentice is in the preparation room, the apprentice shall be within the line of sight of the supervising funeral director.

(4) The board may recognize the supervision of up to 2 apprentices at a funeral establishment that employs less than 3 full-time funeral directors.

(5) Except as provided in sub. (4), the board may recognize the supervision of additional apprenticeships at a funeral establishment provided the establishment employs at least one full-time funeral director per apprentice.

Section 7. FD 1.076 is created to read:

FD 1.076 Terms of apprenticeship. (1) An apprenticeship shall not exceed 4 years from the time of first registration unless a one-year extension is granted by the board. After 4 years from the time of first registration or longer, if an extension is granted, the apprenticeship may not be continued unless the apprentice demonstrates they have retaken an approved certification class under s. FD 1.055.

(2) If, under this section, the apprentice retakes and successfully completes the board approved certification class, an additional 4-year period, subject to a board extension, shall begin.

(3) If an apprentice does not continue under the requirements of this chapter, the apprenticeship shall terminate.

(4) The provisions of this section shall be suspended while a registered apprentice is an active member of the military of the United States.

Section 8. FD 1.077 is created to read:

FD 1.077 Licensure eligibility. In addition to the requirements under this chapter and s. 445.095, Stats., eligibility for a funeral director license shall require an apprentice to present affidavits from the licensed funeral directors under whom the apprentice has worked to verify that during the apprenticeship the apprentice completed all of the following:

- (1) Assisted in embalming for burial or shipment at least 25 dead human bodies.
- (2) Assisted in preparing 25 dead human bodies for burial or transportation, other than by embalming.
- (3) Assisted in at least 25 funeral services during the apprenticeship.

Section 9. FD 1.08 (Note) is amended to read:

FD 1.08 (Note). Application forms are available upon request to the board office located at ~~1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708~~ 4822 Madison Yards Way, Madison, WI 53705, or P.O. Box 8935 Madison, WI 53708.

Section 10. FD 2.02 (3), (4) are renumbered FD 1.015 (2), (3).

Section 11. FD 3.015 is created to read:

FD 3.015 Definitions. As used in this chapter: “Department” means the department of safety and professional services.

Section 12. FD 4.02 (1), (3) are renumbered FD 1.013 (1) and (2).

Section 13. FD 6.02 (2), (3) are repealed.

Section 14. **EFFECTIVE DATE.** The rules adopted in this order shall take effect on the first day of November 2018.

(END OF TEXT OF RULE)

Dated _____

Chair,
Funeral Directors Examining Board

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

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Terri Rees, Paralegal, on behalf of Division Administrator Nate Ristow, Division of Legal Services and Compliance		2) Date When Request Submitted: June 8, 2018 <small>Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting</small>											
3) Name of Board, Committee, Council, Sections: Funeral Directors Examining Board													
4) Meeting Date: June 28, 2018	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Inspections following a change in ownership											
7) Place Item in: <input type="checkbox"/> Open Session <input checked="" type="checkbox"/> Closed Session		8) Is an appearance before the Board being scheduled? <input checked="" type="checkbox"/> Yes (<u>Fill out Board Appearance Request</u>) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:										
10) Describe the issue and action that should be addressed: Discuss Wis. Admin. Code § FD 1.08(2) (see below) regarding inspections of funeral establishments following a change in ownership. FD 1.08 Permits. (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.													
<table style="width: 100%;"> <tr> <td style="width: 40%; vertical-align: top;"> 11) </td> <td style="width: 60%; vertical-align: top;"> Authorization <div style="text-align: right;">6-8-18</div> </td> </tr> <tr> <td style="border-top: 1px solid black;"> Signature of person making this request </td> <td style="border-top: 1px solid black; text-align: right;"> Date </td> </tr> <tr> <td style="border-top: 1px solid black;"> Supervisor (if required) </td> <td style="border-top: 1px solid black; text-align: right;"> Date </td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black;"> Executive Director signature (indicates approval to add post agenda deadline item to agenda) </td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; text-align: right;"> Date </td> </tr> </table>				11) 	Authorization <div style="text-align: right;">6-8-18</div>	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	
11) 	Authorization <div style="text-align: right;">6-8-18</div>												
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.													

BOARD APPEARANCE REQUEST FORM

Appearance Information

Board Name: Funeral Directors Examining Board

Board Meeting Date: June 28, 2018

Person Submitting Agenda Request: Terri Rees, Paralegal, on behalf of Nate Ristow

Person(s) requesting an appearance: Nate Ristow, Division Administrator, Division of Legal Services and Compliance

(NOTE: Contact information is not required for Department staff.)

Reason for Appearance: Discuss with the Board Wis. Admin. Code § FD 1.08(2) regarding inspection of funeral establishments following a change in ownership.

Appearance Contact Information

(NOTE: If the appearing party is represented by an attorney skip the "Appearance Contact Information" section and complete the "Attorney Contact Information" section.)

Mailing address:

Email address:

Telephone #:

Attorney Contact Information

Attorney Name:

Attorney's mailing address:

Attorney's e-mail address:

Attorney's telephone #: