



FUNERAL DIRECTORS EXAMINING BOARD
Room N208, 4822 Madison Yards Way, Madison
Contact: Erin Karow (608) 266-2112
November 27, 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 July 31, 2018 (4-6)

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 (*appointed, not yet confirmed*)
 - 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. PUBLIC HEARING: Clearinghouse Rule 18-075, Relating to Funeral Director Apprenticeship Requirements (7-16)

1. Review and Respond to Public Hearing Comments and Clearinghouse Report

E. PUBLIC HEARING: EmR1823, Relating to Funeral Director Apprenticeship Requirements (17-22)

1. Review and Respond to Public Hearing Comments

F. Legislative and Administrative Rule Matters – Discussion and Consideration (23-26)

1. 2017 Wisconsin Act 108 - Legislature Requested Comprehensive Review of Administrative Code
2. Updates on Legislation and Pending or Possible Rulemaking Projects

G. 9:30 A.M. APPEARANCE: Gabriel Schauf, Instructor at Milwaukee Area Technical College (MATC) Regarding Credentialing Matters (27-28)

1. Discussion Regarding Prerequisite Credit Load (29)

2. Discussion Regarding Internship vs. Apprenticeship Program **(30-33)**

H. Deliberation on Items Added After Preparation of Agenda:

1. Introductions, Announcements and Recognition
2. Election of Officers
3. Appointment of Liaisons and Alternates
4. Administrative Updates **or** Administrative Matters
5. Education and Examination Matters
6. Credentialing Matters
7. Practice Matters
8. Legislative and Administrative Rule Matters
9. Liaison Reports
10. Informational Items
11. Division of Legal Services and Compliance (DLSC) 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 Decisions 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 Engagements, Travel, or Public Relation Requests, and Reports

I. 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.).

J. Credentialing Matters

1. **Application Reviews**
 - a. Alexander Simplot – Funeral Director Applicant **(34)**

K. Deliberation on DLSC Matters

1. **Administrative Warnings**
 - a. 17 FDR 034 – B.J.G. **(35-36)**
 - b. 17 FDR 036 – L.V.W. **(37-38)**
2. **Proposed Stipulations, Final Decisions, and Orders**
 - a. 15 FDR 025 and 16 FDR 023 – J.C. Frazier and Northwest Funeral Chapel **(39-46)**
 - b. 17 FDR 025 – Lisa Martens **(47-52)**
3. **Case Closings**
 - a. 17 FDR 004 – PFH Inc., P.L., L.P. **(53-61)**
 - b. 17 FDR 027 – R.M. **(62-65)**
 - c. 17 FDR 028 – P.M. **(66-69)**

- d. 17 FDR 029 – S.M. (70-72)
- e. 17 FDR 035 – D.W. (73-76)
- f. 18 FDR 002 – All Respondents (77-80)

4. **Monitoring (81-82)**

- a. Tara Steininger – Requesting Full Licensure (83-91)

L. Deliberation of Items Added After Preparation of the Agenda

- 1. Education and Examination Matters
- 2. Credentialing Matters
- 3. DLSC 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. Board Liaison Training
- 15. Proposed Interim Orders
- 16. Petitions for Assessments and Evaluations
- 17. Petitions to Vacate Orders
- 18. Remedial Education Cases
- 19. Motions
- 20. Petitions for Re-Hearing
- 21. Appearances from Requests Received or Renewed

M. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

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

ADJOURNMENT

NEXT MEETING DATE: FEBRUARY 19, 2019

 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 4822 Madison Yards Way, 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
JULY 31, 2018**

PRESENT: D. Bruce Carlson, Marc Eernisse, Eric Lengell, Marla Michaelis

EXCUSED: Aziz Al-Sager

STAFF: Erin Karow, Executive Director; Kate Stolarzyk, Bureau Assistant; and other Department Staff

Marc Eernisse, Chair, called the meeting to order at 9:34 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Eric Lengell moved, seconded by D. Bruce Carlson, to adopt the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF JUNE 28, 2018

MOTION: D. Bruce Carlson moved, seconded by Marla Michaelis, to approve the minutes of June 28, 2018 as published. Motion carried unanimously.

**DELIBERATION OF INSPECTIONS FOLLOWING A CHANGE IN OWNERSHIP –
DISCUSSION AND CONSIDERATION – NATE RISTOW**

MOTION: D. Bruce Carlson moved, seconded by Eric Lengell, to authorize the screening panel to review all change in ownership applications to determine if an inspection is necessary. Motion carried.

LEGISLATIVE/ADMINISTRATIVE RULE MATTERS

**Discuss the Emergency Rule Draft, FD 1 To 4, And 6, Relating To Funeral Director
Apprenticeship Requirements**

MOTION: D. Bruce Carlson moved, seconded by Eric Lengell, to authorize the Chair to approve the emergency rule relating to funeral director apprenticeship requirements, for emergency rule submission to the governor, publication in an official newspaper and for the permanent rule posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

MOTION: Eric Lengell moved, seconded by Marla Michaelis, to request DSPS staff to include the following criteria in the 16-hour course required for apprenticeship per Wisconsin Stat. 445.095(1)(a):

1. Funeral Director Apprentice Expectations
2. Funeral Ethics and Etiquette

3. Understanding Funeral Services, Gatherings and Various Types of Dispositions
4. Laws, Rules and Regulations of Funeral Service
5. Workplace Safety & OSHA
6. Introduction to Funeral Service: Notification of Death, Transfers and Arrangements
7. Embalming, Dressing & Casketing
8. Grief and Psychology of Funeral Service
9. In-person Instruction
10. Complete Testing Approved by The Board with A Passing Score Of 75%

Motion carried unanimously.

CLOSED SESSION

MOTION: D. Bruce Carlson 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: D. Bruce Carlson – yes; Marc Eernisse – yes; Eric Lengell – yes; and Marla Michaelis – yes. Motion carried unanimously.

The Board convened into Closed Session at 11:24 a.m.

RECONVENE TO OPEN SESSION

MOTION: Marla Michaelis moved, seconded by Eric Lengell, to reconvene in Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 11:27 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

MOTION: Marc Eernisse moved, seconded by Marla Michaelis 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

Administrative Warning(s)

17 FDR 015 – D.J.T.

MOTION: Marla Michaelis moved, seconded by Eric Lengell, to issue an Administrative Warning in the matter of D.J.T., DLSC Case Number 17 FDR 015. Motion carried unanimously.

ADJOURNMENT

MOTION: D. Bruce Carlson moved, seconded by Eric Lengell, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:31 a.m.

DRAFT

**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: November 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: November 27, 2018 | 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 Clearinghouse Rule 18-075, relating to funeral director apprenticeship requirements. 2) Public Hearing EmR1823, relating to funeral director apprenticeship requirements. 3) 2017 Act 108 Legislature requested comprehensive review of administrative code. 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 (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: The Board will hold a public hearing on Clearinghouse Rule 18-075 and EmR1823 relating to funeral director apprenticeship requirements. The Board will discuss any public hearing comments and respond to any Clearinghouse comments. The Board will provide any additional guidance for the final permanent rule. Discuss the Act 108 review of the funeral director administrative code to assess whether there are any rules which might be obsolete, or which may have been rendered unnecessary, duplicative, superseded by, or in conflict with federal statute or regulation, or economically burdensome. | | | |
| 11) Signature of person making this request Greg DiMiceli | | Authorization | Date 11/8/2018 |
| 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
Department of Safety & Professional Services**

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING
BOARD
FUNERAL DIRECTORS EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 18-075)

PROPOSED ORDER

A proposed 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), 1.05, and 1.08 (note); and to create FD 1.013 (intro.), 1.015 (intro.), 1.015 (1), 1.055, 1.056, 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.

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.

This rule requires an applicant for a funeral director's license to complete a 16-hour certification class rather than completing one year of college work or equivalent education after completing the required nine months of instruction in mortuary science. The rule provides the class required instructional content and provides for a class exam as well as an exam passing standard.

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.

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 class.

Finally, this rule requires that apprentices applying for funeral director licensure must present affidavits from the licensed funeral directors under whom the apprentice worked to verify that the apprentice completed the practical apprenticeship work requirements.

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:

This rule was developed using recommendations from the Wisconsin Funeral Directors Examining Board, technical colleges, the Funeral Service & Cremation Alliance of Wisconsin and other stakeholder groups. No other factual data or analytical methodologies were used.

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

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document 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 NathanielL.Ristow@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 1.02 (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 5. 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 6. FD 1.055 is created to read:

FD 1.055 Certification class requirement. 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 7. FD 1.056 is created to read:

FD 1.056 Certification class content. (1) The 16-hour certification class shall contain the following instructional topics:

- (a) Funeral director apprentice expectations.
- (b) Funeral ethics and etiquette.
- (c) Understanding funeral services, gatherings, and various types of dispositions.
- (d) Laws, rules, and regulations of funeral service.
- (e) Workplace safety and Occupational Safety and Health Administration requirements.
- (f) Introduction to funeral service: notification of death, transfers, and arrangements.
- (g) Embalming, dressing, and casketing.
- (h) Grief and psychology of funeral services.
- (i) In-person instruction.

(2) Following the instructional presentation of the material under sub. (1) a written examination, approved by the board, shall be administered.

(3) The written exam shall cover each of the topics under sub. (1) and be included within the 16-hour class requirement.

(4) A passing score of 75 percent on the written exam shall be considered as having successfully completed the certification class.

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 9. 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 10. 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 11. FD 1.08 (Note) is amended to read:

FD 1.08 (Note). Application forms are available through the department's website at <https://dsps.wi.gov/pages/Home.aspx> and upon request at 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 12. FD 2.02 (3), (4) are renumbered FD 1.015 (2), (3).

Section 13. 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 14. FD 4.02 (1), (3) are renumbered FD 1.013 (1) and (2).

Section 15. FD 6.02 (2), (3) are repealed.

Section 16. 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)



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Jessica Karls-Ruplinger
Legislative Council Acting Director

Margit S. Kelley
Clearinghouse Assistant 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 18-075

AN ORDER to repeal FD 6.02 (2) and (3); to renumber FD 2.02 (3) and (4) and 4.02 (1) and (3); to amend FD 1.01, 1.02 (4) and (5), 1.05, and 1.08 (Note); and to create FD 1.013 (intro.), 1.015 (intro.) 1.055, 1.056, 1.075 (3), (4), and (5), 1.076, 1.077 and 3.015, relating to funeral director apprenticeship requirements.

Submitted by **FUNERAL DIRECTORS EXAMINING BOARD**

10-22-2018 RECEIVED BY LEGISLATIVE COUNCIL.

11-19-2018 REPORT SENT TO AGENCY.

SG:JEO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Jessica Karls-Ruplinger
Legislative Council Acting Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 18-075

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

- a. In SECTION 1, the citation to s. 227.11, Stats., should be to s. 227.11 (2) (a), Stats.
- b. In SECTION 1, should the citation to s. 445.03, Stats., instead be to s. 445.03 (2) (a), Stats.? The latter citation appears in the analysis preceding the text of the rule.

2. Form, Style and Placement in Administrative Code

In SECTION 3, it is unclear why a definition of “applicant” is needed. The chapter does not consistently use “applicant”, and the term in s. 445.05, Stats., is “person”. Unless the agency uses the term “applicant” in a way that renders its plain meaning is ambiguous, the definition can be omitted.

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

- a. In SECTION 5, American board of funeral service education should not be capitalized. [s. 1.01(4), Manual.]
- b. For clarity, s. FD 1.076 (1) should utilize the more precise statutory language: instead of “or longer if an extension is granted”, the agency should insert “or, if an extension is granted, after the expiration of the extension, ...”. Clarity would also be improved by substituting “again completes” for the words “demonstrates they have retaken”.
- c. For style reasons the agency may consider deleting “retakes and” in s. FD 1.07 (2).
- d. The term “department” should not be capitalized in the definition in SECTION 13.

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), 1.05, and 1.08 (note); and to create FD 1.013 (intro.), 1.015 (intro.), 1.015 (1), 1.055, 1.056, 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 requirements 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 the 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.

This rule requires an applicant for a funeral director’s license to complete a 16-hour certification class rather than completing one year of college work or equivalent education after completing the required nine months of instruction in mortuary science. The rule provides the class required instructional content and provides for a class exam as well as an exam passing standard.

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.

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 class.

Finally, this rule requires that apprentices applying for funeral director licensure must present affidavits from the licensed funeral directors under whom the apprentice worked to verify that the apprentice completed the practical apprenticeship work requirements.

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:

This rule was developed using recommendations from the Wisconsin Funeral Directors Examining Board, technical colleges, the Funeral Service & Cremation Alliance of Wisconsin and other stakeholder groups. No other factual data or analytical methodologies were used.

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

None.

Fiscal Estimate:

The Department of Safety and Professional Services estimates a one-time administrative cost of \$327.11. These costs will be absorbed within the agency's budget.

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 NathanielL.Ristow@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 1.02 (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 5. 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 6. FD 1.055 is created to read:

FD 1.055 Certification class requirement. 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 7. FD 1.056 is created to read:

FD 1.056 Certification class content. (1) The 16-hour certification class shall contain the following instructional topics:

- (a) Funeral director apprentice expectations.
- (b) Funeral ethics and etiquette.
- (c) Understanding funeral services, gatherings, and various types of dispositions.
- (d) Laws, rules, and regulations of funeral service.
- (e) Workplace safety and Occupational Safety and Health Administration requirements.
- (f) Introduction to funeral service: notification of death, transfers, and arrangements.
- (g) Embalming, dressing, and casketing.
- (h) Grief and psychology of funeral services.
- (i) In-person instruction.

(2) Following the instructional presentation of the material under sub. (1) a written examination, approved by the board, shall be administered.

(3) The written exam shall cover each of the topics under sub. (1) and be included within the 16-hour class requirement.

(4) A passing score of 75 percent on the written exam shall be considered as having successfully completed the certification class.

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 9. 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 10. 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 11. FD 1.08 (Note) is amended to read:

FD 1.08 (Note). Application forms are available through the department's website at <https://dsps.wi.gov/pages/Home.aspx> and upon request at 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 12. FD 2.02 (3), (4) are renumbered FD 1.015 (2), (3).

Section 13. 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.

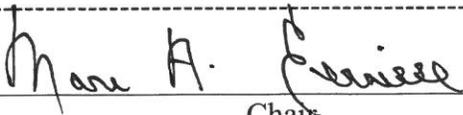
Section 14. FD 4.02 (1), (3) are renumbered FD 1.013 (1) and (2).

Section 15. FD 6.02 (2), (3) are repealed.

Section 16. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of November 2018.

(END OF TEXT OF RULE)

Dated October 10, 2018



Chair,
Funeral Directors Examining Board

State of Wisconsin



2017 Assembly Bill 317

Date of enactment: **November 30, 2017**

Date of publication*: **December 1, 2017**

2017 WISCONSIN ACT 108

AN ACT to amend 227.135 (2); and to create 13.92 (2) (jg), 35.93 (2) (b) 3. fm., 35.93 (2) (b) 3. gm., 227.138, 227.26 (4) and 227.29 of the statutes; relating to: review by state agencies of administrative rules and enactments; an expedited process for repealing rules an agency no longer has the authority to promulgate; retrospective economic impact analyses for rules; and reporting by the Legislative Reference Bureau on rules in need of revision.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 13.92 (2) (jg) of the statutes is created to read:

13.92 (2) (jg) Prior to the end of each even-numbered year, report to the joint committee for review of administrative rules regarding rules in the Wisconsin administrative code that the chief has identified as possibly being in need of revision.

SECTION 2. 35.93 (2) (b) 3. fm. of the statutes is created to read:

35.93 (2) (b) 3. fm. Retrospective economic impact analyses for rules under s. 227.138.

SECTION 3. 35.93 (2) (b) 3. gm. of the statutes is created to read:

35.93 (2) (b) 3. gm. Petitions and proposed rules submitted under s. 227.26 (4) (b) 1.

SECTION 4. 227.135 (2) of the statutes, as affected by 2017 Wisconsin Act 57, is amended to read:

227.135 (2) An agency that has prepared a statement of the scope of the proposed rule shall present the statement to the department of administration, which shall make a determination as to whether the agency has the explicit authority to promulgate the rule as proposed in

the statement of scope and shall report the statement of scope and its determination to the governor who, in his or her discretion, may approve or reject the statement of scope. The agency may not send the statement to the legislative reference bureau for publication under sub. (3) until the governor issues a written notice of approval of the statement. The agency shall also present the statement to the individual or body with policy-making powers over the subject matter of the proposed rule for approval. The individual or body with policy-making powers may not approve the statement until at least 10 days after publication of the statement under sub. (3) and, if a preliminary public hearing and comment period are held by the agency under s. 227.136, until the individual or body has received and reviewed any public comments and feedback received from the agency under s. 227.136 (5). No state employee or official may perform any activity in connection with the drafting of a proposed rule, except for an activity necessary to prepare the statement of the scope of the proposed rule until the governor and the individual or body with policy-making powers over the subject matter of the proposed rule approve the statement. This subsection does not prohibit an agency from

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

performing an activity necessary to prepare a petition and proposed rule for submission under s. 227.26 (4).

SECTION 5. 227.138 of the statutes is created to read:

227.138 Retrospective economic impact analyses for rules. (1) The joint committee for review of administrative rules may direct an agency to prepare a retrospective economic impact analysis for any of an agency's rules that are published in the code. The committee may identify one or more specific chapters, sections, or other subunits in the code that are administered by the agency as the rules that are to be the subject of the analysis and may specify a deadline for the preparation of the analysis. A retrospective economic impact analysis shall contain information on the economic effect of the rules on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. When preparing the analysis, the agency shall solicit information and advice from businesses, associations representing businesses, local governmental units, and individuals that have been affected by the rules. The agency shall prepare the retrospective economic impact analysis in coordination with local governmental units that have been affected by the rules. The agency may request information that is reasonably necessary for the preparation of a retrospective economic impact analysis from other businesses, associations, local governmental units, and individuals and from other agencies. The retrospective economic impact analysis shall include all of the following:

(a) An analysis and quantification of the policy problem that the rules were intended to address, including comparisons with the approaches used by the federal government and by Illinois, Iowa, Michigan, and Minnesota to address that policy problem.

(b) An analysis and detailed quantification of the economic impact of the rules, including the implementation and compliance costs that have been incurred by or passed along to the businesses, local governmental units, and individuals that have been affected by the rules.

(c) An analysis of the actual and quantifiable benefits of the rules, including an assessment of how effective the rules have been in addressing the policy problem that the rules were intended to address.

(d) An analysis of alternatives to the rules, including the alternative of repealing the rules.

(e) A determination made in consultation with the businesses, local governmental units, and individuals that have been affected by the rules as to whether the rules have adversely affected in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state.

(f) An analysis of the ways in which and the extent to which the rules have placed limitations on the free use of private property, including a discussion of alternatives to the rules that would minimize any such limitations.

(g) A comparison of the actual economic effect of the rules being analyzed to any economic impact analysis that analyzed the expected economic effect of those rules when they were proposed.

(h) Any other information requested by the committee related to the economic impact of the rules.

(2) An agency that prepares a retrospective economic impact analysis under sub. (1) shall submit that analysis to the department of administration, to the governor, and to the chief clerks of each house of the legislature, who shall distribute the analysis to the presiding officers of their respective houses, to the chairpersons of the appropriate standing committees of their respective houses, as designated by those presiding officers, and to the cochairpersons of the joint committee for review of administrative rules. The agency shall also send an electronic copy of the analysis to the legislative reference bureau, in a format approved by the legislative reference bureau, for publication in the register.

SECTION 6. 227.26 (4) of the statutes is created to read:

227.26 (4) REPEAL OF UNAUTHORIZED RULES. (a) In this subsection, "unauthorized rule" means a rule that an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation.

(b) Notwithstanding ss. 227.114 to 227.117 and 227.135 to 227.19, an agency that promulgated or that otherwise administers a rule that the agency determines is an unauthorized rule shall petition the joint committee for review of administrative rules for authorization to repeal that rule by using the following process:

1. The agency shall submit a petition with a proposed rule that repeals the rule the agency has determined is an unauthorized rule to the legislative council staff for review. The proposed rule shall be in the form required under s. 227.14 (1) and shall include the material required under s. 227.14 (2) (a) 1., 2., and 7. and a statement that the agency is petitioning the joint committee for review of administrative rules to use the process under this subsection to repeal a rule the agency has determined to be an unauthorized rule. The agency shall also send an electronic copy of the petition and the proposed rule to the legislative reference bureau, in a format approved by the legislative reference bureau, for publication in the register.

2. The legislative council staff shall review the petition and proposed rule in accordance with s. 227.15 (2) and submit to the joint committee for review of administrative rules the petition and proposed rule with a written report including a statement of its determination as to whether the proposed rule proposes to repeal an unauthorized rule. The legislative council staff shall send the agency a copy of its report with an indication of the date

on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b) 3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under s. 227.20, together with a copy of the committee's decision.

SECTION 7. 227.29 of the statutes is created to read:

227.29 Agency review of rules and enactments. (1) By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

(2) The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

(3) If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

(4) (a) In this subsection, "enactment" means an act or a portion of an act that is required to be published under s. 35.095 (3) (a).

(b) Each agency shall review enactments to determine whether any part of an enactment does any of the following:

1. Eliminates or restricts the agency's authority to promulgate any rules promulgated or otherwise administered by that agency.

2. Renders any rules promulgated or otherwise administered by that agency obsolete or unnecessary.

3. Renders, for any reason, any rules promulgated or otherwise administered by that agency not in conformity with or superseded by a state statute, including due to statutory numbering or terminology changes in the enactment.

4. Requires or otherwise necessitates rule making by the agency.

(c) If an agency determines that any consequence specified in par. (b) 1. to 4. results from an enactment or part of an enactment, within 6 months after the applicable effective date for the enactment or part of the enactment, the agency shall do one or more of the following, as applicable, to address the consequence identified by the agency and notify the joint committee for review of administrative rules of its action:

1. Submit a statement of the scope of a proposed rule under s. 227.135 (2), unless the enactment requires otherwise or unless the agency submits a notice to the committee explaining why it is unable to submit the statement of scope within that time period and an estimate of when the agency plans to submit the statement of scope.

2. In the case of an affected rule that the agency determines is an unauthorized rule, as defined in s. 227.26 (4) (a), submit a petition to the legislative council staff under s. 227.26 (4) (b) 1.

3. In the case of a consequence specified under par. (b) 3. that can be addressed by the legislative reference bureau using its authority under s. 13.92 (4) (b), submit a request to the legislative reference bureau to use that authority.

SECTION 8. Initial applicability.

(1) The treatment of section 227.29 (4) of the statutes first applies to enactments published by the legislative

reference bureau under section 35.095 (3) (a) of the statutes on the effective date of this subsection.

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

AGENDA REQUEST FORM

| | | | |
|--|--|--|--|
| 1) Name and Title of Person Submitting the Request: Erin Karow, Executive Director | | 2) Date When Request Submitted: 11/19/2018 <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: 11/27/2018 | 5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 6) How should the item be titled on the agenda page? G. 9:30 AM APPEARANCE: Gabriel Schauf, Instructor at Milwaukee Area Technical College Regarding MATC Credentialing Matters 1. Discussion Regarding Prerequisite Credit Load 2. Discussion Regarding Internship vs. Apprenticeship Program | |
| 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No | 9) Name of Case Advisor(s), if required: None | |
| 10) Describe the issue and action that should be addressed: Please review the attached documentation submitted by Gabriel Schauf, instructor for the MATC Funeral Service Program: <ol style="list-style-type: none"> 1. MATC Discussion Regarding Prerequisite Credit Load 2. MATC Internship vs. Apprenticeship | | | |
| 11) Authorization | | | |
| <i>Erin Karow</i> | | 11/19/2018 | |
| 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: <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. | | | |

BOARD APPEARANCE REQUEST FORM

Appearance Information

Board Name: Funeral Directors Examining Board

Board Meeting Date: 11/27/2018

Person Submitting Agenda Request: Erin Karow, Executive Director

Person(s) requesting an appearance:

Gabriel Schauf

Instructor

MATC – Funeral Service Program

Reason for Appearance: Discuss Credentialing Matters Related to MATC

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.)

Email address: schaufg@matc.edu

Telephone #: (414) 465-5320

MATC Discussion Regarding Prerequisite Credit Load

Goal: Decrease the required number of prerequisite credits required by the state to enter into the funeral service program; to better align with the WTCS's Associate of Applied Science and Arts degree credit load.

Currently: A student currently needs to complete 60 prerequisite credits (required by the state) **before joining** the funeral service program. Upon completion of the program, students will have earned no less than 93 total credits and attended school for no less than 3+ years to earn their associates degree.

Problems with Current Model:

- 93 total credits from start to finish exceed the Wisconsin Technical College System maximum credit requirement (60-70 total credits); as of 2018 WTCS' goal is to require no more than 64 total credits.
- Other competing associate degree funeral programs require less total credits, making MATC / WI a less desirable option.
- An Associate's degree is typically earned in 2 years while the funeral service program takes 3+.
- The total amount of credits also costs more money for students to take.
- Courses deemed beneficial and pertinent anatomy, accounting, etc.) can be completed within less credits; other requirements seem unfocused (electives)
- The time it takes to meet all prerequisites leads potential students to other states or other professions

Credit Comparison

- MATC - 93
- Worsham – 80
- Des Moines - 64
- Carl Sandberg – IL - 70
- University of Minnesota – 120 (bachelors)

Proposal

- All verbiage within statutes remains the same EXCEPT – prerequisite credit load drops from 60 to 30 credits
- MATC sets required curriculum that meets requirements of Wisconsin Technical College System, American Board of Funeral Service Educators, and the state of Wisconsin
- Furthermore – curriculum required by MATC is streamlined to prepare student for successful completion of national boards
- Current Funeral Service Program course load is 30 credits

Given the proposed 30 credit prerequisite load and the 33 credits a student will take while in the funeral service program, the student will complete their education with 63 total credits which makes us competitive with other programs. It also reduces a student's total cost and focuses their learning to what they need to learn vs taking a lot of coursework to reach a certain credit number.

MATC Discussion Regarding Wisconsin State Apprenticeship vs MATC Field Experience Internship Course

Goal: Determine a clear separation between the state's apprenticeship and MATC's field experience course. Make them two independent items.

Currently: A student needs to find a place to "apprentice" in order to take the field experience course. This involves finding a place to work at becoming licensed as an apprentice (including the funeral home "giving up a spot" for a student) at that location.

Problems with the Current Model:

- Some students only able to do the 8 hours required for the course but "life" prevents them from being able to work more hours desired by some funeral homes
- Funeral homes "give up" an apprentice spot – some are unwilling
- Apprenticeship locks in student to one place for the year – as opposed to learning different techniques from different locations
- Apprentice paperwork takes time to process through the state and students fall behind (especially if struggling with finding a place to work)
- Currently, students are required to find a place to apprentice before the program starts in the fall. Many don't know how to do this and give up.
- Conflict of interest – students are required to abide by apprentice standards but hours worked and tasks completed are not credited towards apprentice requirements. Also the 8 hours worked for the class is to be unpaid, but funeral directors are required to pay apprentices.

Questions and Discussion from the State Statutes:

- **Point 1: What are students considered? Students have been embalming at the school since the beginning (pre 1970s). It is a requirement of the ABFSE. Currently we require the apprentice license so they can do the internship (which is what we are trying to eliminate) but that requirement went into effect only in 2017. According to DHS 136.03 we can embalm at a school but can students embalm?**

- **Wis. Admin. Code Sec. DHS 136.03**

(1) No person may embalm a dead human body unless the person holds a funeral director's license, pursuant to ss. 445.04 to 445.06, Stats., or an apprentice funeral director's certificate pursuant to s. 445.095, Stats.

(2) Embalming may only be performed in:

- (a) Funeral establishments holding a current establishment permit issued by the funeral directors examining board.
- (b) Hospitals.
- (c) Facilities approved by a local medical examiner or coroner if a disaster occurs.
- (d) Private homes as provided in ch. DHS 135.

(e) Mortuary schools accredited by the American board of funeral service education or otherwise deemed to be equivalent by the funeral directors examining board.

(f) Medical schools approved by the medical examining board.

- **Point 2: There is a conflict with 445.095. (B) The internship course in question is a class that students take through the school at an offsite classroom. The eight-hour requirement per week for the internship class is coursework that doesn't allow for students to be paid or compensated by an employer. Students being paid for this work is considered "double-dipping". (D and E) We have talked to the DSPS and were told that any paperwork generated through MATC coursework will not be accepted as reports that meet the requirements of the state apprenticeship. This includes the 8 hours of work per week and all documents students create recording their activity (embalming reports, arrangement reports, activity reports).**

- **445.095 Apprenticeship, funeral directors.**

(b) All apprentices under this chapter shall be paid at least the minimum wage in effect in this state.

(d) All apprentices registered under this section shall report at least semiannually to the examining board upon forms provided by the examining board. The reports shall contain the information required by the examining board. Failure to submit the required reports shall constitute justification for termination of the apprenticeship.

(e) The semiannual report must show the number of hours served by the apprentice and the number of bodies the apprentice has assisted in embalming, or otherwise prepared for burial or disposition during such period, the number of funeral services at which the apprentice has assisted, and give such other information as may be required by the examining board. The data contained in the report shall be certified to as correct by the licensed funeral director under whom the apprentice has served during such period.

- **Point 3: The ABFSE recognizes the use of off-campus classrooms for learning and to meet their educational requirements as long as the requirements are met - site visits, updated licensure, preceptors who graduated from ABFSE accredited funeral service programs, etc. We meet all of those standards and maintain paperwork on all funeral homes who participate. Furthermore, MATC has a multitude of other programs who participate in off-campus learning - it isn't a foreign situation in a tech college.**

- **American Board of Funeral Service Education - STANDARD 6: CURRICULUM**

6.9.1 - Each student must actively participate in at least ten (10) embalmings in order to fulfill the clinical embalming component of the curriculum.

These Embalming cases may either be completed in an on-campus setting or at an off-campus instructional site.

There shall be no more than five (5) students per case receiving credit for a specific embalming. There may be additional students observing; however, they may not interrupt or interfere with the embalming process or distract the preceptor while the embalming is in process.

6.9.6 - Embalming cases may be completed in an on-campus setting or at an off-campus instructional site.

If preceptors are used, there must be an identified certification process in place and proper documentation that each preceptor has been properly oriented about the school's requirements concerning knowledge base, competency, and evaluation of student procedures and criteria. The training must include an on- or off-campus workshop and/or a manual pertaining to the training and methods of evaluation. In addition, preceptors must meet the requirements of Standard 7.2.4a and be certified as indicated in Standard 7.3.

Off-campus instructional sites where students receive college credit are to be physically visited by a representative of the program and approved prior to the start of instruction. Instruction includes management, funeral directing and clinical. These visits must occur at least biennially or prior to each use if the use occurs intermittently over a period of several years. Visits must also occur whenever physical changes to the facility are reported. Inspections of off-campus instruction sites must ensure the location has a valid, current license. In addition, inspections must ensure that off-campus sites are clean and adequate for instructional purposes. The inspection must ensure that appropriate equipment and protocols (drench shower, eye wash station, SDS [formerly MSDS] and blood borne pathogen program, ventilation system, proper protective equipment, etc.) are in place and functioning.

Signed affiliation agreements must be maintained by each program. The agreements must include a stated process for interrupting the clinical experience and recourse dismissal of a student from clinical experience and a clear definition of what is to be expected of the preceptor and what is provided by the program.

- **American Board of Funeral Service Education - STANDARD 8: Facilities**

Off-Campus Instructional Sites: Instruction at off-campus locations is generally in the form of practicum, internship, or embalming instruction. Whenever students receive program credit for work carried out off the main campus, the following facilities requirements must be in effect:

8.2.1 funeral homes in which off-campus instruction takes must be licensed by the appropriate authorities;

8.2.2 off-campus instruction must take place in locations which offer adequate learning space for students involved. In the case of instruction in embalming, preparation room facilities must be of sufficient size to allow for satisfactory participation by each student involved;

8.2.3 the program must have written affiliation agreements with each off-campus instructional site. Each agreement must specify the responsibilities of the program/institution and the instructional site relative to supervision and instruction of students and liability. Where appropriate, and in accordance with institutional policies, personnel at the instructional site may be given adjunct faculty appointments by the institution; and

8.2.4 all facilities must satisfy federal, state, and local regulations.

Our Conclusion: Students should be able to do funeral tasks as part of the program's coursework without an apprentice license. Per the ABFSE, MATC is adding participating funeral homes under its umbrella, considering them "off-site classrooms". We are meeting ABFSE's requirements of inspections and agreements to make these ABFSE approved off-site classrooms. Under Wis Admin Code Sec DHS 136.03 (e) it says Mortuary schools accredited by the American Board...OR OTHERWISE DEEMED EQUIVALENT by the funeral directors examining board. So if the examining board deems them equivalent, then we should be able to conduct our Funeral Service Field Experience Course (Internship) as coursework that doesn't require students to have their apprentice license or fall under the apprentice situation at all.

This could be further supported by the fact that work done through this class isn't accepted by the state as "apprentice requirement fulfilling" as well as the fact that paying students for their work done during the class is NOT ALLOWED, but it is a state requirement to pay a student no less than minimum wage for work done during the apprenticeship.

Furthermore, setting up the field experience this way will allow for us to utilize more area funeral homes and provide students with a variety of experiences in all aspects of the profession. This is similar to the model used by the University of Minnesota.