



2019 ASSEMBLY BILL 576

October 25, 2019 - Introduced by Representatives VANDERMEER, ALLEN, BALLWEG, BORN, DITTRICH, FELZKOWSKI, FIELDS, HEBL, HORLACHER, JAMES, KNODL, KULP, MACCO, NOVAK, OLDENBURG, PETRYK, PLUMER, RODRIGUEZ, SORTWELL, STUCK, TITTL, TUSLER and WITKE, cosponsored by Senators KOOYENGA, CRAIG, KAPENGA, OLSEN, JOHNSON and LARSON. Referred to Committee on Regulatory Licensing Reform.

1 **AN ACT** *to repeal* 445.095 (5); *to renumber* 445.095 (1) (b); *to renumber and*
2 *amend* 445.095 (1) (a); *to consolidate, renumber and amend* 445.095 (1) (d)
3 and (e); and *to amend* 445.045 (1) (d), 445.045 (1) (e) and 445.045 (1) (f) of the
4 statutes; **relating to:** requirements for funeral director apprenticeships and
5 licenses, extending the time limit for emergency rule procedures, and providing
6 an exemption from emergency rule procedures.

Analysis by the Legislative Reference Bureau

Currently, in order to be eligible for a funeral director license, an individual must, in addition to satisfying other requirements, have 1) completed a funeral director apprenticeship; 2) completed two academic years of instruction in a recognized college or university; and 3) completed nine months or more instruction in a prescribed course in mortuary science. Current law requires that the nine months of mortuary science be completed after completing a 16-hour certification class, which is a prerequisite to beginning the apprenticeship.

This bill 1) requires 24 semester credits of education, instead of two years, in order to be granted a funeral director license; and 2) eliminates the requirement that the nine months of instruction in mortuary science be completed after completing a 16-hour certification class. The bill further provides that if an individual completes the nine months of instruction in mortuary science before beginning an apprenticeship, the 16-hour certification class is not required to begin the apprenticeship.

ASSEMBLY BILL 576

The bill also makes various nonsubstantive organizational changes to the laws governing funeral directors.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 445.045 (1) (d) of the statutes is amended to read:

2 445.045 (1) (d) The person must have completed ~~2~~ 24 semester credits
3 ~~academic years~~ of instruction in a recognized college or university, in a course of
4 study approved by the examining board, or have equivalent education.

5 **SECTION 2.** 445.045 (1) (e) of the statutes is amended to read:

6 445.045 (1) (e) The person must have satisfactorily completed 9 months or more
7 of instruction in a prescribed course in mortuary science approved by the examining
8 board ~~at any time after having completed an approved certification class described~~
9 ~~in s. 445.095 (1) (a).~~

10 **SECTION 3.** 445.045 (1) (f) of the statutes is amended to read:

11 445.045 (1) (f) The person must have completed one year of apprenticeship as
12 prescribed in s. 445.095 ~~at any time after having completed an approved certification~~
13 ~~class described in s. 445.095 (1) (a) and,~~ either before or after taking the course in
14 mortuary science required by par. (e), and must have satisfied the requirement under
15 s. 445.095 (4).

16 **SECTION 4.** 445.095 (1) (a) of the statutes is renumbered 445.095 (1) (a) 1.
17 (intro.) and amended to read:

18 445.095 (1) (a) 1. (intro.) A person desiring to become an apprentice as a funeral
19 director and who satisfies all of the following shall apply on a form provided for the

ASSEMBLY BILL 576

1 purpose and appear before the examining board, or any duly appointed
2 representative of the examining board. ~~The application shall state that the:~~

3 a. The applicant is 18 years of age or older,

4 b. The applicant holds a high school diploma or possesses equivalent education
5 as defined by the examining board,

6 c. The applicant does not have an arrest or conviction record, subject to ss.
7 111.321, 111.322, and 111.335, and

8 d. The applicant has completed a 16-hour certification class approved by the
9 examining board or has satisfied the requirement under s. 445.045 (1) (e).

10 2. The application under subd. 1. must be substantiated by the oath of the
11 applicant and be accompanied by

12 1. e. The applicant pays the fee specified in s. 440.05 (6).

13 3. When the examining board is satisfied as to the qualification of that an
14 applicant for apprenticeship satisfies the requirements for granting a certificate of
15 apprenticeship, it shall issue grant the applicant a certificate of apprenticeship.

16 **(3r)** ~~When the an apprentice enters the employment of a licensed funeral~~
17 ~~director, the apprentice shall immediately notify the examining board, giving the~~
18 ~~name and place of business of the funeral director whose service the apprentice has~~
19 ~~entered. If, at any time thereafter, the apprentice leaves the employment of the~~
20 ~~licensed funeral director whose service the apprentice has entered, the licensed~~
21 ~~funeral director shall give the apprentice an affidavit showing the length of time~~
22 ~~served as an apprentice with that employer, and the work done in detail, which~~
23 ~~affidavit shall be filed with the examining board and made a matter of record in that~~
24 ~~office. If the apprentice thereafter enters the employment of another licensed~~
25 ~~funeral director in this state, the applicant shall forthwith report such employment~~

ASSEMBLY BILL 576**SECTION 4**

1 to the examining board. No person may serve or attempt to serve as an apprentice
2 under a funeral director until the person has notified the examining board as
3 required under this subsection.

4 **SECTION 5.** 445.095 (1) (b) of the statutes is renumbered 445.095 (2m).

5 **SECTION 6.** 445.095 (1) (d) and (e) of the statutes are consolidated, renumbered
6 445.095 (3g) and amended to read:

7 445.095 (**3g**) All apprentices registered under this section shall report at least
8 semiannually to the examining board upon forms provided by the examining board.
9 ~~The reports shall contain the information required by the examining board~~
10 department. Failure to submit the required reports shall constitute justification
11 grounds for termination of the apprenticeship. ~~(e)~~ The semiannual report ~~must~~ shall
12 show the number of hours served by the apprentice ~~and,~~ the number of bodies the
13 apprentice has assisted in embalming, or otherwise prepared for burial or disposition
14 during such period, and the number of funeral services at which the apprentice has
15 assisted, and give such any other information as ~~may be~~ required by the examining
16 board. The data contained in the report shall be certified to as correct by the licensed
17 funeral director under whom the apprentice has served during ~~such~~ that period.

18 **SECTION 7.** 445.095 (5) of the statutes is repealed.

19 **SECTION 8. Nonstatutory provisions.**

20 (1) The funeral directors examining board may promulgate emergency rules
21 under section 227.24 of the statutes necessary to implement this act.
22 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
23 promulgated under this subsection remain in effect until May 1, 2022, or the date on
24 which permanent rules take effect, whichever is sooner. Notwithstanding section
25 227.24 (1) (a) and (3) of the statutes, the examining board is not required to provide

ASSEMBLY BILL 576

1 evidence that promulgating a rule under this subsection as an emergency rule is
2 necessary for the preservation of the public peace, health, safety, or welfare and is
3 not required to provide a finding of emergency for a rule promulgated under this
4 subsection.

5 **SECTION 9. Initial applicability.**

6 (1) The treatment of s. 445.045 (1) (d), (e), and (f) first applies to an application
7 for a funeral director license submitted by an applicant who submitted an application
8 for a certificate of apprenticeship on the effective date of this subsection.

9 (2) The treatment of s. 445.095 (1) (a) first applies to an application for a
10 certificate of apprenticeship submitted by an applicant on the effective date of this
11 subsection.

12 **SECTION 10. Effective dates.** This act takes effect on the first day of the 7th
13 month beginning after publication, except as follows:

14 (1) SECTION 8 (1) of this act takes effect on the day after publication.

15 (END)



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4448/1
MED:cdc

2019 SENATE BILL 518

October 18, 2019 - Introduced by Senators KOOYENGA, OLSEN, CRAIG, JOHNSON, KAPENGA and LARSON, cosponsored by Representatives VANDERMEER, SORTWELL, MACCO, ALLEN, RODRIGUEZ, TITTL, KULP, STUCK, BORN, PETRYK, PLUMER, NOVAK, KNODL, TUSLER, WITTKE, OLDENBURG, BALLWEG, DITTRICH, FIELDS, HEBL, FELZKOWSKI, JAMES and HORLACHER. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT** *to repeal* 445.095 (5); *to renumber* 445.095 (1) (b); *to renumber and*
2 *amend* 445.095 (1) (a); *to consolidate, renumber and amend* 445.095 (1) (d)
3 and (e); and *to amend* 445.045 (1) (d), 445.045 (1) (e) and 445.045 (1) (f) of the
4 statutes; **relating to:** requirements for funeral director apprenticeships and
5 licenses, extending the time limit for emergency rule procedures, and providing
6 an exemption from emergency rule procedures.

Analysis by the Legislative Reference Bureau

Currently, in order to be eligible for a funeral director license, an individual must, in addition to satisfying other requirements, have 1) completed a funeral director apprenticeship; 2) completed two academic years of instruction in a recognized college or university; and 3) completed nine months or more instruction in a prescribed course in mortuary science. Current law requires that the nine months of mortuary science be completed after completing a 16-hour certification class, which is a prerequisite to beginning the apprenticeship.

This bill 1) requires 24 semester credits of education, instead of two years, in order to be granted a funeral director license; and 2) eliminates the requirement that the nine months of instruction in mortuary science be completed after completing a 16-hour certification class. The bill further provides that if an individual completes the nine months of instruction in mortuary science before beginning an apprenticeship, the 16-hour certification class is not required to begin the apprenticeship.

SENATE BILL 518

The bill also makes various nonsubstantive organizational changes to the laws governing funeral directors.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 445.045 (1) (d) of the statutes is amended to read:

2 445.045 (1) (d) The person must have completed ~~2~~ 24 semester credits
3 ~~academic years~~ of instruction in a recognized college or university, in a course of
4 study approved by the examining board, or have equivalent education.

5 **SECTION 2.** 445.045 (1) (e) of the statutes is amended to read:

6 445.045 (1) (e) The person must have satisfactorily completed 9 months or more
7 of instruction in a prescribed course in mortuary science approved by the examining
8 board ~~at any time after having completed an approved certification class described~~
9 ~~in s. 445.095 (1) (a).~~

10 **SECTION 3.** 445.045 (1) (f) of the statutes is amended to read:

11 445.045 (1) (f) The person must have completed one year of apprenticeship as
12 prescribed in s. 445.095 ~~at any time after having completed an approved certification~~
13 ~~class described in s. 445.095 (1) (a) and,~~ either before or after taking the course in
14 mortuary science required by par. (e), and must have satisfied the requirement under
15 s. 445.095 (4).

16 **SECTION 4.** 445.095 (1) (a) of the statutes is renumbered 445.095 (1) (a) 1.
17 (intro.) and amended to read:

18 445.095 (1) (a) 1. (intro.) A person desiring to become an apprentice as a funeral
19 director and who satisfies all of the following shall apply on a form provided for the

SENATE BILL 518

1 purpose and appear before the examining board, or any duly appointed
2 representative of the examining board. ~~The application shall state that the:~~

3 a. The applicant is 18 years of age or older,

4 b. The applicant holds a high school diploma or possesses equivalent education
5 as defined by the examining board,

6 c. The applicant does not have an arrest or conviction record, subject to ss.
7 111.321, 111.322, and 111.335, and

8 d. The applicant has completed a 16-hour certification class approved by the
9 examining board or has satisfied the requirement under s. 445.045 (1) (e).

10 2. The application under subd. 1. must be substantiated by the oath of the
11 applicant and be accompanied by

12 1. e. The applicant pays the fee specified in s. 440.05 (6).

13 3. When the examining board is satisfied as to the qualification of that an
14 applicant for apprenticeship satisfies the requirements for granting a certificate of
15 apprenticeship, it shall issue grant the applicant a certificate of apprenticeship.

16 **(3r)** ~~When the an apprentice enters the employment of a licensed funeral~~
17 ~~director, the apprentice shall immediately notify the examining board, giving the~~
18 ~~name and place of business of the funeral director whose service the apprentice has~~
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21 ~~funeral director shall give the apprentice an affidavit showing the length of time~~
22 ~~served as an apprentice with that employer, and the work done in detail, which~~
23 ~~affidavit shall be filed with the examining board and made a matter of record in that~~
24 ~~office. If the apprentice thereafter enters the employment of another licensed~~
25 ~~funeral director in this state, the applicant shall forthwith report such employment~~

SENATE BILL 518**SECTION 4**

1 to the examining board. No person may serve or attempt to serve as an apprentice
2 under a funeral director until the person has notified the examining board as
3 required under this subsection.

4 **SECTION 5.** 445.095 (1) (b) of the statutes is renumbered 445.095 (2m).

5 **SECTION 6.** 445.095 (1) (d) and (e) of the statutes are consolidated, renumbered
6 445.095 (3g) and amended to read:

7 445.095 (3g) All apprentices registered under this section shall report at least
8 semiannually to the examining board upon forms provided by the examining board.
9 ~~The reports shall contain the information required by the examining board~~
10 department. Failure to submit the required reports shall constitute justification
11 grounds for termination of the apprenticeship. (e) The semiannual report ~~must~~ shall
12 show the number of hours served by the apprentice ~~and,~~ the number of bodies the
13 apprentice has assisted in embalming, or otherwise prepared for burial or disposition
14 during such period, and the number of funeral services at which the apprentice has
15 assisted, and give such any other information as ~~may be~~ required by the examining
16 board. The data contained in the report shall be certified to as correct by the licensed
17 funeral director under whom the apprentice has served during ~~such~~ that period.

18 **SECTION 7.** 445.095 (5) of the statutes is repealed.

19 **SECTION 8. Nonstatutory provisions.**

20 (1) The funeral directors examining board may promulgate emergency rules
21 under section 227.24 of the statutes necessary to implement this act.
22 Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules
23 promulgated under this subsection remain in effect until May 1, 2022, or the date on
24 which permanent rules take effect, whichever is sooner. Notwithstanding section
25 227.24 (1) (a) and (3) of the statutes, the examining board is not required to provide

SENATE BILL 518

1 evidence that promulgating a rule under this subsection as an emergency rule is
2 necessary for the preservation of the public peace, health, safety, or welfare and is
3 not required to provide a finding of emergency for a rule promulgated under this
4 subsection.

5 **SECTION 9. Initial applicability.**

6 (1) The treatment of s. 445.045 (1) (d), (e), and (f) first applies to an application
7 for a funeral director license submitted by an applicant who submitted an application
8 for a certificate of apprenticeship on the effective date of this subsection.

9 (2) The treatment of s. 445.095 (1) (a) first applies to an application for a
10 certificate of apprenticeship submitted by an applicant on the effective date of this
11 subsection.

12 **SECTION 10. Effective dates.** This act takes effect on the first day of the 7th
13 month beginning after publication, except as follows:

14 (1) SECTION 8 (1) of this act takes effect on the day after publication.

15 (END)

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

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

PROPOSED ORDER

An order of the Funeral Directors Examining Board to repeal FD 1.015 (title) and (intro.), 1.056 (1) (i) and 2.02 (title) and (intro.); to renumber FD 1.015 (2) and (3), and 2.02 (1); to renumber and amend FD 2.02 (2); to amend FD 1.056 (1) (intro) and 2.03 (1) and (2); to repeal and recreate FD 1.075 (1) and (2) and to create FD 2.03 (1g) and (1r) relating to licensure and standards of practice for funeral directors and funeral director apprentices.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 445.095, Stats.

Statutory authority: Sections 15.08 (5) (b) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., “[e]ach 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 227.11 (2) (a), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..”

Related statute or rule:

Section 445.01, Stats., defines funeral directors and funeral director apprentices.

Plain language analysis:

This rule project renumbers several definitions to place them within s. FD 1.013, making clear that the definitions apply throughout the FD suite. Section FD 1.056 is also revised to clarify that the 16-hour certification course for apprentices must be completed in-person.

The rule project revises s. FD 1.075 to clarify that apprentices may only embalm or otherwise prepare a dead human body for burial or disposition, conduct funeral services, and make funeral arrangements while under the personal supervision of a licensed funeral director.

Section FD 2.03 is revised to correct the section to reflect that funeral arrangements may be made only by licensed funeral directors, agents registered under s. FD 6.03, and apprentices under the personal supervision of a licensed funeral director. It is further revised to reflect that embalming or otherwise preparing a dead human body for burial or disposition, and the conducting of funeral services, can only be performed by a licensed funeral director or an apprentice under the personal supervision of a licensed funeral director. Additionally, s. FD 6.03 is amended to provide that only a licensed funeral director or an apprentice under the supervision of a licensed funeral director may make removals of dead human bodies.

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

The federal government does not regulate the tasks that can be performed by funeral director apprentices or the level of supervision a licensed funeral director must exercise over apprentices.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

Mr. Dan Christianson gave public testimony on the scope statement at the Funeral Director Examining Board's August 27, 2019 meeting. Mr. Christianson expressed his opposition to the board's requirement that applicants for reinstatement with a license that has been expired for 10 years or more must provide evidence of passage of the National Board Examination of the International Conference of Funeral Service Examining Boards within the last 12 months.

The board considered Mr. Christianson's testimony, but did not choose to pursue the changes sought. Requiring passage of the national board is an objective measure to ensure that an individual who has not practiced in over 10 years is competent to serve as a funeral director.

Comparison with rules in adjacent states:

Illinois: Illinois code requires funeral director interns to participate in funeral arrangements, preparation and embalming of dead human bodies, and removals of dead human bodies. A licensed funeral director must direct and supervise the intern when performing these procedures. (IL Admin Code s. 1250.130 (a) and (b)). Illinois requires a representative of the funeral establishment be present for final disposition in a

cemetery, but the representative need not be a licensed funeral director or intern. (IL Admin Code s. 1250.180).

Iowa: Iowa code requires a funeral director's license to make removals of dead human bodies, embalming, conducting funeral arrangements and funeral services including supervision of visitation and viewing, funeral and memorial ceremonies, and committal and final disposition services. (IAC 645-110.2 (1)).

A registered intern may provide these same services under the direct supervision of a licensee. (IAC 645-110.2 (2)). The actual transportation of an unembalmed dead human body can be delegated to unlicensed staff if the funeral director has ensured the body is in a leakproof container and all body orifices are secured so as to retain all secretions. (IAC 645-110.4(3))

Michigan: Resident trainees may learn the practice of embalming or funeral directing under the instruction and personal supervision of a holder of a licensee. Instruction and personal supervision are not defined by statute or rule. (MCL 339.1801 (f)).

Minnesota: A license is required to remove dead human bodies from the place of death for compensation, to prepare a dead human body for burial, makes funeral arrangements, or supervise a funeral, memorial service, or graveside service. (Minn. Stats. 149A.20 (1)).

Interns and students officially registered for a practicum or clinical through a program of mortuary science accredited by the American Board of Funeral Service Education may perform these tasks provided that they are registered with the commissioner and act under the direct and exclusive supervision of a licensee. (Minn. Stats. 149A.01 (3) (d)). Direct supervision means overseeing the performance of an individual, where the supervisor is available to observe and correct, as needed, the performance of the individual. (Minn Stats. 149A.02 (13a)).

Summary of factual data and analytical methodologies:

As part of the board's review of its rules under s. 227.29, Stats., the board determined it was necessary to clarify the tasks that funeral director apprentices may perform, and under what level of supervision. Failure to do so would result in the rules remaining inconsistent with state statute, and inconsistent within the FD suite.

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

The rule will be posted for 14 days on the department website to solicit economic impact comments.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis will be 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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, 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 Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before TBD to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. FD 1.015 (2) and (3) are renumbered FD 1.013 (4) and (5).

SECTION 2. FD 1.015 (title) and (intro.) are repealed.

SECTION 3. FD 1.056 (1) (intro) is amended to read:

FD 1.056 (1) (intro.) The 16-hour certification class shall contain the following in-person instructional topics:

SECTION 4. FD 1.056 (1) (i) is repealed.

SECTION 5. FD 1.075 (1) and (2) are repealed and recreated to read:

FD 1.075 (1) Apprentices may engage in the following activities only when under the personal supervision of a licensed funeral director:

- (a) Embalming or otherwise preparing for the burial or disposal of a dead human body.
- (b) Making funeral arrangements.
- (c) Conducting funeral services.

(2) Apprentices may engage in the following activities only when under the supervision of a licensed funeral director:

- (a) Making removals of dead human bodies.
- (b) Conducting services where a dead human body is not present.

SECTION 6. FD 2.02 (title) and (intro.) are repealed.

SECTION 7. FD 2.02 (1) is renumbered FD 1.013 (1m).

SECTION 8. FD 2.02 (2) is renumbered FD 1.013 (3) and is amended to read:

FD 1.013 (4) “Funeral services” means the ceremonies held in conjunction with the disposition of the dead human body, where the body is present, and including visitation, religious rites, memorials, and graveside services.

SECTION 9. FD 2.03 (1) is amended to read:

FD 2.03 (1) Funeral arrangements may be made only by licensed funeral directors, agents registered under s. FD 6.03, or funeral director apprentices under the personal supervision of a licensed funeral director; ~~and~~

SECTION 10. FD 2.03 (1g) and (1r) are created to read:

FD 2.03 (1g) The following tasks may only be performed by licensed funeral directors or funeral director apprentices under the personal supervision of a licensed funeral director:

- (a) Embalming or otherwise preparing for the burial or disposal of a dead human body.
- (b) Conducting funeral services.

(1r) The following tasks may only be performed by licensed funeral directors or funeral director apprentices under the supervision of a licensed funeral director:

- (a) Making removals of dead human bodies.
- ~~(b) Conducting services where a dead human body is not present.~~

SECTION 11. FD 2.03 (2) is amended to read:

FD 2.03 (2) Any other dealings on behalf of the establishment, ~~including the conducting of funeral services,~~ shall be performed only by or under the supervision of licensed funeral directors.

SECTION 12. 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)

FD 1 with Proposed Changes

FD 1.01 Authority and intent. This chapter is adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 (2) (a), 440.08 (3) (b), and 445.03 (2) (a), Stats., to clarify and establish licensure criteria for funeral directors, funeral director apprentices, and funeral establishments.

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

(1) “Board” means the funeral directors examining board.

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

(2) “Funeral director” means a person as defined in s. 445.01 (5), Stats.

(3) “Funeral services” means the ceremonies held in conjunction with the disposition of the dead human body, where the body is present, and including includes visitation, religious rites, memorials, and graveside services.

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

(5) “Supervision” means regularly to coordinate, direct and inspect the practice of another.

FD 1.015 Definitions; this chapter. As used in this chapter:

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

(3) “Supervision” means regularly to coordinate, direct and inspect the practice of another.

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

(1) A completed application.

(2) Required fee under s. 440.03 (9) (a), Stats.

(3) Evidence of completion of 2 academic years of instruction in a recognized college or university meeting the requirements of s. FD 1.04.

(4) Evidence of completion of 9 months or more instruction in a prescribed course in mortuary science meeting the requirements of s. FD 1.05 after having completed a 16–hour certification class approved by the board.

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

(6) If the applicant has an arrest or conviction record, documentation necessary for the board to determine whether the circumstances substantially relate to the practice of funeral director, subject to ss. 111.321, 111.322, and 111.335, Stats.

(7) Evidence of passage of the National Board Examination of the International Conference of Funeral Service Examining Boards.

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

FD 1.03 Examination grade. The passing grade on each licensure examination shall be determined by the board to represent minimum competence to practice. The board may adopt the recommended passing score of the examination provider.

FD 1.04 Two academic years of instruction. To meet the requirements of 2 academic years of instruction specified in s. 445.045 (1) (d), Stats., an applicant shall submit to the board an official transcript of courses from a regionally accredited college showing that the applicant has completed a course of study with 60 semester credit hours in the following areas:

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

FD 1.05 Mortuary school. 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 or otherwise deemed to be equivalent by the funeral directors examining board.

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.

FD 1.056 Certification class content. (1) The 16-hour certification class shall contain the following in person 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 examination 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 examination shall be considered as having successfully completed the certification class.

FD 1.065 Changes in apprenticeship assignment.

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

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

FD 1.075 Supervision of apprentices. ~~(1) Apprentices may engage in the following activities only when under the personal supervision of a licensed funeral director: embalming and other preparing of dead human bodies for burial or transportation, and making funeral arrangements.~~

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

(1) Apprentices may engage in the following activities only when under the personal supervision of a licensed funeral director:

(a) Embalming or otherwise preparing for the burial or disposal of a dead human body.

(b) Making funeral arrangements.

(c) Conducting funeral services.

(2) Apprentices may engage in the following activities only when under the supervision of a licensed funeral director:

(a) Making removals of dead human bodies.

(b) Conducting services where a dead human body is not present.

(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.

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, if an extension is granted, after the expiration of the extension, the apprenticeship may not be continued unless the apprentice again completes 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.

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.

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

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

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

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

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

(3) All preparation rooms shall be equipped with a ventilating system capable of expelling gases or fumes to the outside at a point so as not to create a nuisance, and shall also be equipped with a hard surface, metal or porcelain top embalming table, a set of essential embalming instruments and a supply of disinfectants.

FD 1.10 License renewal and reinstatement procedures.

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

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

(a) A completed application.

(b) The renewal and late fees specified in s. 440.08 (2) and (3) (a), Stats.

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

(d) Evidence of one of the following:

1. Current licensure as a funeral director if the applicant holds an active license in good standing as a funeral director in another state.

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

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

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

(a) Evidence of completion of the requirements in sub. (2) if the credential has not been active within the last 5 years.

(b) Evidence of completion of disciplinary requirements, if applicable.

(c) Evidence of rehabilitation or change in circumstances, warranting reinstatement of the credential.

FD 1.11 Renewal of Wisconsin licenses of out-of-

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

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

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

(1) A completed application for licensure.

(2) The fee specified under s. 440.05 (2), Stats.

(3) If the applicant has an arrest or conviction record, documentation necessary for the board to determine whether the circumstances substantially relate to the practice of funeral director,

subject to ss. 111.321, 111.322, and 111.335, Stats.

(4) Verification of a valid license in good standing from any state of licensure.

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

FD 2 with Proposed Changes

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

FD 2.02 Definitions. As used in this chapter:

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

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

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

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

(1) Funeral arrangements may be made only by licensed funeral directors, agents registered under s. FD 6.03, or funeral director apprentices under the personal supervision of a licensed funeral director; and

(1g) The following tasks may only be performed by licensed funeral directors or funeral director apprentices under the personal supervision of a licensed funeral director:

(a) Embalming or otherwise preparing for the burial or disposal of a dead human body.

(b) Conducting funeral services.

(1r) The following tasks may only be performed by licensed funeral directors or funeral director apprentices under the supervision of a licensed funeral director:

(a) Making removals of dead human bodies.

(b) Conducting services where a dead human body is not present. --REMOVE

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

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

FD 2.05 Business telephone listings and advertising.

(1) Each funeral establishment shall insure that only true funeral establishment names and addresses as registered with the funeral directors examining board shall appear in telephone

listings or other publications and in advertising by any media whatsoever. A funeral establishment may list under a previous establishment name in a telephone or business directory, provided that the listing contains a reference to the establishment name currently registered with the board.

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

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

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

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

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

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

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

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

STATEMENT OF SCOPE

Funeral Directors Examining Board

Rule No.: FD 1

Relating to: Funeral director license applications

Rule Type: Permanent

1. Detailed description of the objective of the proposed rule:

The objective of the proposed rule will be to review and possibly revise FD 1, specifically the portions relating to application requirements for licensure as a funeral director, to bring the rule text into conformity with statutory requirements. ~~Specifically, the rule will update FD 1 to require two affidavits of recommendation from at least 2 persons of the county in which the applicant resides or proposes to conduct the business of a funeral director.~~ The rule will also review and possibly revise the language in FD 1 regarding the consideration of an applicant's arrest and conviction record to better align it with the relevant state statutes. Chapter FD 1 will also be comprehensively reviewed for readability and conformity with current drafting standards.

2. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

This rule is necessary to ensure the application requirements in ch. FD 1 accurately reflect the requirements enumerated in statute. Failure to update the chapter to make these revisions may result in confusion for stakeholders and leave the rules out of compliance with state law.

4. Detailed explanation of statutory authority for the rule:

Section 15.08 (5) (b), Stats., “[e]ach 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 227.11 (2) (a), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

Section 445.03 (2), Stats., “[t]he examining board may: (a) 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 examining and licensing of funeral directors and the registration of apprentices.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Funeral director license applicants.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

The federal government does not regulate license application requirements for funeral directors.

8. Anticipated economic impact of implementing the rule:

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

Contact Person: Jon Derenne, Administrative Rules Coordinator, (608) 266-0955

Board Chairperson

Date Submitted