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**FUNERAL DIRECTORS EXAMINING BOARD**  
**Room N206, 4822 Madison Yards Way, 2<sup>nd</sup> Floor, Madison**  
**Contact: Christian Albouras (608) 266-2112**  
**November 19, 2019**

*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 August 27, 2019 (4-8)**

**C. Introductions, Announcements and Recognition**

- 1) **Recognition**
  - a. D. Bruce Carlson, Funeral Director Member

**D. Administrative Matters**

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates

**E. Legislative and Policy Matters – Discussion and Consideration**

- 1) Assembly Bill 576
- 2) Senate Bill 518

**F. Administrative Rule Matters – Discussion and Consideration (9)**

- 1) FD 1 and 2 Relating to Licensure and Standards of Practice for Funeral Directors and Funeral Director Apprentices **(11-26)**
- 2) FD 4 Relating to Continuing Education Requirements for Funeral Directors **(27-32)**
- 3) FD 6 Relating to Burial Agreements Funded with Life Insurance **(33-39)**
- 4) FD 1 Relating to Licensure Application Requirements **(40-41)**
- 5) Pending or Possible Rulemaking Projects

**G. Discussion and Consideration of Items Added After Preparation of Agenda:**

- 1) Introductions, Announcements and Recognition
- 2) Administrative Matters
- 3) Election of Officers
- 4) Appointment of Liaisons and Alternates
- 5) Delegation of Authorities
- 6) Education and Examination Matters

- 7) Credentialing Matters
- 8) Practice Matters
- 9) Legislative and Policy Matters
- 10) Administrative Rule Matters
- 11) Liaison Reports
- 12) Board Liaison Training and Appointment of Mentors
- 13) Informational Items
- 14) Division of Legal Services and Compliance (DLSC) Matters
- 15) Presentations of Petitions for Summary Suspension
- 16) Petitions for Designation of Hearing Examiner
- 17) Presentation of Stipulations, Final Decisions and Orders
- 18) Presentation of Proposed Final Decisions and Orders
- 19) Presentation of Interim Orders
- 20) Petitions for Re-Hearing
- 21) Petitions for Assessments
- 22) Petitions to Vacate Orders
- 23) Requests for Disciplinary Proceeding Presentations
- 24) Motions
- 25) Petitions
- 26) Appearances from Requests Received or Renewed
- 27) Speaking Engagements, Travel, or Public Relation Requests, and Reports

#### H. 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.).**

#### I. Deliberation on Division of Legal Services and Compliance Matters

- 1) **Proposed Stipulations, Final Decisions, and Orders**
  - a. 19 FDR 012 – Walworth Funeral Home, Inc. **(42-47)**
- 2) **Case Closing(s)**
  - a. 18 FDR 008 – S.N.A. and C.A.C.F.S. **(48-53)**
  - b. 18 FDR 011 – L.E.S. and S.O.F.C. **(54-58)**
  - c. 18 FDR 012 – J.A.N. **(59-62)**

#### J. 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) Proposed Interim Orders
- 10) Administrative Warnings
- 11) Review of Administrative Warnings
- 12) Proposed Final Decisions and Orders

- 13) Matters Relating to Costs/Orders Fixing Costs
- 14) Case Closings
- 15) Board Liaison Training
- 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

K. Consulting with Legal Counsel

**RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION**

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

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

**ADJOURNMENT**

**NEXT MEETING: FEBRUARY 18, 2020 (TENTATIVE)**

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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  
AUGUST 27, 2019**

**PRESENT:** Marc Eernisse, Eric Lengell, Marla Michaelis (*via Skype*), Joseph Schinkten

**EXCUSED:** D. Bruce Carlson

**STAFF:** Christian Albouras, Executive Director; Jameson Whitney, Legal Counsel; Jon Derenne, Administrative Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Adv; and other Department Staff

**CALL TO ORDER**

Marc Eernisse, Chairperson, called the meeting to order at 9:41 a.m. A quorum of four (4) members was confirmed.

**ADOPTION OF AGENDA**

**Adoption of the Agenda:**

- Open Session – Under item “C. Introductions, Announcements and Recognition” **ADD:**
  - “Resignations and Replacements”
    - “Aziz Al-Sager”
- Open Session – Under item “D. Administrative Matters” **ADD:**
  - “Election of Officers (Secretary)”
  - “Appointment of Liaisons and Alternates”

**MOTION:** Marla Michaelis moved, seconded by Eric Lengell, to adopt the Agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES OF MAY 21, 2019**

**MOTION:** Joseph Schinkten moved, seconded by Eric Lengell, to approve the Minutes of May 21, 2019 as published. Motion carried unanimously.

**INTRODUCTIONS, ANNOUNCEMENTS AND RECOGNITION**

**Resignations and Replacements**

*Aziz Al-Sager, Funeral Director Member*

**MOTION:** Marc Eernisse moved, seconded by Eric Lengell, to recognize and thank Aziz Al-Sager for his 3 years of dedicated service to the Board and State of Wisconsin. Motion carried unanimously.

## ADMINISTRATIVE MATTERS

### Election of Officers

#### *Secretary*

**NOMINATION:** Marc Eernisse nominated Joseph Schinkten for the Office of Secretary.

Christian Albouras, Executive Director, called for nominations three (3) times.

Joseph Schinkten was elected as Secretary by unanimous vote.

<b>ELECTION RESULTS</b>	
<b>Secretary</b>	Joseph Schinkten

### Appointment of Liaison and Alternates

<b>2019 LIAISON APPOINTMENTS</b>	
<b>Credentialing Liaison</b>	Marla Michaelis <i>Alternate:</i> Marc Eernisse
<b>Monitoring and Professional Assistance Procedure (PAP) Liaison</b>	<i>Alternate:</i> Marc Eernisse
<b>Legislative Liaison</b>	Marc Eernisse <i>Alternate:</i> Marla Michaelis
<b>Continuing Education Liaison</b>	<i>Alternate:</i> Marc Eernisse
<b>Travel Liaison</b>	Marc Eernisse <i>Alternate:</i> Marla Michaelis
<b>Screening Panel</b>	Eric Lengell, Joseph Schinkten, Marla Michaelis <i>Alternate:</i> Marc Eernisse

**PRELIMINARY PUBLIC HEARING ON STATEMENT OF SCOPE  
SS 064-19 – FD 1 AND 2 RELATING TO LICENSURE AND STANDARDS OF  
PRACTICE FOR FUNERAL DIRECTORS AND FUNERAL DIRECTOR  
APPRENTICES**

**Review and Respond to Public Hearing Comments**

**MOTION:** Marla Michaelis moved, seconded by Joseph Schinkten, to approve the Scope Statement, SS 064-19, revising FD 1 and 2, relating to licensure and standards of practice for funeral directors and funeral director apprentices, for implementation after consideration of all public comments and feedback. Motion carried unanimously.

**MOTION:** Marc Eernisse moved, seconded by Eric Lengell, to designate Marla Michaelis to serve as liaison to DSPS staff for drafting FD 1 and 2, relating to licensure and standards of practice for funeral directors and funeral director apprentices. Motion carried unanimously.

**PRELIMINARY PUBLIC HEARING ON STATEMENT OF SCOPE  
SS 065-19 – FD 4 RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR  
FUNERAL DIRECTORS**

**Review and Respond to Public Hearing Comments**

**MOTION:** Eric Lengell moved, seconded by Joseph Schinkten, to approve the Scope Statement, SS 065-19, revising FD 4, relating to continuing education requirements for funeral directors, for implementation after consideration of all public comments and feedback. Motion carried unanimously.

**PRELIMINARY PUBLIC HEARING ON STATEMENT OF SCOPE:  
SS 066-19 – FD 6 RELATING TO BURIAL AGREEMENTS FUNDED WITH LIFE  
INSURANCE**

**Review and Respond to Public Hearing Comments**

**MOTION:** Marla Michaelis moved, seconded by Marc Eernisse, to approve the Scope Statement, SS 066-19, revising FD 6, relating to burial agreements funded with life insurance, for implementation after consideration of all public comments and feedback. Motion carried unanimously.

## LEGISLATIVE AND ADMINISTRATIVE RULE MATTERS

### FD 1 Relating to the Funeral Director Apprentice Certification Course, and Licensure Application Requirements

**MOTION:** Eric Lengell moved, seconded by Marla Michaelis, to request DSPS staff draft a Scope Statement revising FD 1 relating to the application requirements for a funeral director license. Motion carried unanimously.

### CLOSED SESSION

**MOTION:** Joseph Schinkten moved, seconded by Eric Lengell, 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 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.). Marc Eernisse, Chairperson, read the language of the motion aloud for the record. The vote of each member was ascertained by voice vote. Roll Call Vote: Marc Eernisse-yes; Eric Lengell-yes; Marla Michaelis-yes; and Joseph Schinkten-yes. Motion carried unanimously.

The Board convened into Closed Session at 12:02 p.m.

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

#### Stipulations and Final Decisions and Orders

##### *18 FDR 007 – Kevin P. Casey and Casey Funeral Home*

**MOTION:** Joseph Schinkten moved, seconded by Eric Lengell, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Kevin P. Casey and Casey Funeral Home, Case Number 18 FDR 007. Motion carried unanimously.

#### Administrative Warnings:

##### *17 FDR 039 – K.L.A. and A.E.F.H.*

**MOTION:** Marla Michaelis moved, seconded by Eric Lengell, to issue an Administrative Warning in the matter of K.L.A. and A.E.F.H., DLSC Case Number 17 FDR 039. Motion carried unanimously.

## Case Closings

### ***18 FDR 007 – M.J.M.***

**MOTION:** Eric Lengell moved, seconded by Marla Michaelis, to close DLSC Case Number 17 FDR 007, against M.J.M., for Prosecutorial Discretion (P2). Motion carried unanimously.

### ***18 FDR 014 – J.A.W.***

**MOTION:** Marc Eernisse moved, seconded by Joseph Schinkten, to close DLSC Case Number 18 FDR 014, against J.A.W., for Insufficient Evidence (IE). Motion carried unanimously.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Eric Lengell moved, seconded by Joseph Schinkten, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:18 p.m.

### **VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION, IF VOTING IS APPROPRIATE**

**MOTION:** Eric Lengell moved, seconded by Joseph Schinkten 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.)*

### **ADJOURNMENT**

**MOTION:** Joseph Schinkten moved, seconded by Eric Lengell, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:23 p.m.

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

**AGENDA REQUEST FORM**

1) Name and title of person submitting the request: Jon Derenne, Administrative Rules Coordinator		2) Date when request submitted: November 8, 2019 <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 19, 2019	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1. FD 1 and 2 relating to licensure and standards of practice for funeral directors and funeral director apprentices. 2. FD 4 relating to continuing education requirements for funeral directors. 3. FD 6 relating to burial agreements funded with life insurance. 4. FD 1 relating to licensure application requirements 5. Pending or 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? <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Jon Derenne</i>		November 8, 2019	
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	

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

Directions for including supporting documents:

1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

## Chapter FD 1

### LICENSES AND PERMITS

FD 1.01	Authority and intent.
FD 1.013	Definitions; generally.
FD 1.015	Definitions; this chapter.
FD 1.02	Applications.
FD 1.03	Examination grade.
FD 1.04	Two academic years of instruction.
FD 1.05	Mortuary school.
FD 1.055	Certification class requirement.
FD 1.056	Certification class content.

FD 1.065	Changes in apprenticeship assignment.
FD 1.075	Supervision of apprentices.
FD 1.076	Terms of apprenticeship.
FD 1.077	Licensure eligibility.
FD 1.08	Permits.
FD 1.09	Preparation rooms.
FD 1.10	License renewal and reinstatement procedures.
FD 1.11	Renewal of Wisconsin licenses of out-of-state funeral directors.
FD 1.12	Reciprocity.

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

**FD 1.01 Authority and intent.** This chapter is adopted pursuant to authority of ss. 15.08 (5) (b), 227.11 (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.

**History:** Cr. Register, July, 1988, No. 391, eff. 8-1-88; CR 16-011: am. Register September 2016 No. 729, eff. 10-1-16; EmR 1823: emerg. am. eff. 11-27-18; CR 18-075: am. Register June 2019 No. 762, eff. 7-1-19.

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

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

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

**History:** EmR 1823: emerg. cr. title, (intro.), renum. FD 4.02 (1), (3) to 1.013 (1) (2) eff. 11-27-18; CR 18-075: cr. (title), (intro.), (1), (2) renum. from FD 4.02 (1), (3) Register June 2019 No. 762, eff. 7-1-19; correction in (title) made under s. 13.92 (4) (b) 7., Stats., Register June 2019 No. 762.

**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.

**History:** EmR 1823: emerg. (2), (3), renum. from FD 2.02 (3), (4) Register June 2019 No. 762, eff. 7-1-19; eff. 11-27-18; CR 18-075: (2), (3), renum. from FD 2.02 (3), (4) Register June 2019 No. 762, eff. 7-1-19; correction in (title) made under s. 13.92 (4) (b) 7., Stats., Register June 2019 No. 762.

**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.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.01, Register, July, 1988, No. 391, eff. 8-1-88; am., Register, November, 1998, No. 515, eff. 12-1-98; CR 16-011: r. and recr. Register September 2016 No. 729, eff. 10-1-16; EmR 1823: emerg. am. (4), (5) eff. 11-27-18; CR 18-075: am. (4), (5) Register June 2019 No. 762, eff. 7-1-19.

**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.

**History:** Cr. Register, July, 1988, No. 391, eff. 8-1-88; r. and recr., Register, November, 1998, No. 515, eff. 12-1-98; CR 16-011: am. (1), (2) Register September 2016 No. 729, eff. 10-1-16; correction in numbering made under s. 13.92 (4) (b) 1., Stats., Register September 2016 No. 729.

**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.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; r. and recr. (4), r. (5) and renum. (6) to be (5), Register, June, 1979, No. 282, eff. 7-1-79; am. Register, January, 1980, No. 289, eff. 2-1-80; renum. from FDE 2.03 and am., Register, July, 1988, No. 391, eff. 8-1-88; CR 17-049: am. Register July 2018 No. 751, eff. 8-1-18.

**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.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; renum. from FDE 2.04 and am., Register, July, 1988, No. 391, eff. 8-1-88; correction made under s. 13.93 (2m) (b) 6., Stats., Register, December, 1989, No. 408; EmR 1823: emerg. am. eff. 11-27-18; CR 18-075: am. Register June 2019 No. 762, eff. 7-1-19.

**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.

**History:** EmR 1823: emerg. cr. eff. 11-27-18; CR 18-075: cr. Register June 2019 No. 762, eff. 7-1-19.

**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 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.

**History:** EmR 1823: emerg. cr. eff. 11-27-18; CR 18-075: cr. Register June 2019 No. 762, eff. 7-1-19; corrections in (2), (3), (4) made under s. 13.92 (4) (b) 12., Stats., Register June 2019 No. 762.

#### 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.

**History:** Cr. Register, June, 1978, No. 270, eff. 7-1-78; (1) renum. from FDE 2.13 and am., cr. (2), Register, July, 1988, No. 391, eff. 8-1-88; CR 17-049: renum. from FD 2.07 Register July 2018 No. 751, eff. 8-1-18.

**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.

(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.

**History:** Cr. Register, July, 1988, No. 391, eff. 8-1-88; CR 17-049: renum. from FD 2.06 Register July 2018 No. 751, eff. 8-1-18; EmR 1823: emerg. cr. (3), (4), (5) eff. 11-27-18; CR 18-075: cr. (3), (4), (5) Register June 2019 No. 762, eff. 7-1-19.

**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.

**History:** EmR 1823: emerg. cr. eff. 11-27-18; CR 18-075: cr. Register June 2019 No. 762, eff. 7-1-19; correction in (2) made under s. 35.17, Stats., Register June 2019 No. 762.

**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.

**History:** EmR 1823: emerg. cr. eff. 11-27-18; CR 18-075: cr. Register June 2019 No. 762, eff. 7-1-19.

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

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

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

**Note:** Application forms are available on the department's website at <https://dps.wi.gov/pages/Home.aspx>, or by request from the Department of Safety and Professional Services, P.O. Box 8935, Madison, WI 53708, or call (608) 266-2112.

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

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

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

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

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

**FD 1.10 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.

**History:** Cr. Register, September, 1993, No. 453, eff. 10-1-93; r. and recr. (1) and (2), am. (3), Register, November, 1998, No. 515, eff. 12-1-98; CR 16-011: r. and recr. Register September 2016 No. 729, eff. 10-1-16.

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

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

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

**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.

**Note:** Applicants must complete the "Application for Funeral Director Credential" to apply for a license and the "Application for Examination" to take the Wisconsin jurisprudence examination for funeral directors. Application forms are available at <http://dps.wi.gov/Licenses-Permits/FuneralDirector/FDIRforms>.

**History:** CR 16-010: cr. Register September 2016 No. 729, eff. 10-1-16; correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register July 2018 No. 751.

## Chapter FD 2

### STANDARDS OF PRACTICE

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

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

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

**History:** Cr. [Register, July, 1988, No. 391](#), eff. 8-1-88.

**FD 2.02 Definitions.** As used in this chapter:

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

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

**History:** Cr. [Register, July, 1988, No. 391](#), eff. 8-1-88; correction in (1) made under s. 13.93 (2m) (b) 12., Stats., [Register, September, 1993, No. 453](#); am. (1), [Register, November, 1998, No. 515](#), eff. 12-1-98; [EmR 1823: emerg. renum. \(3\), \(4\) to FD 1.015 \(2\), \(3\) eff. 11-27-18; CR 18-075: renum. \(3\), \(4\) to FD 1.015 \(2\), \(3\) Register June 2019 No. 762](#), eff. 7-1-19.

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

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

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

**History:** Cr. [Register, July, 1988, No. 391](#), eff. 8-1-88.

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

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

**FD 2.05 Business telephone listings and advertising.** (1) Each funeral establishment shall insure that only true funeral establishment names and addresses as registered with the funeral directors examining board shall appear in telephone listings or other publications and in advertising by any media whatsoever. A funeral establishment may list under a previous establishment name in a telephone or business directory, provided that the listing contains a reference to the establishment name currently registered with the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATE OF WISCONSIN  
FUNERAL DIRECTORS EXAMINING BOARD

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

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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.

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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.

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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.

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(END OF TEXT OF RULE)  
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## 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.

(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.

## Chapter FD 4

## CONTINUING EDUCATION REQUIREMENTS

FD 4.01	Authority.
FD 4.02	Definitions.
FD 4.03	Continuing education.
FD 4.04	Approval of continuing education programs.

FD 4.045	Qualifications for continuing education instructors.
FD 4.05	Exemption.
FD 4.06	Audit.

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

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

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

**FD 4.02 Definitions.** In this chapter,

(2) “Evidence of attendance” means an official transcript, student grade report or a written form furnished by a program provider which specifies satisfactory completion of a continuing education program.

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

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

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

(4) “Program provider” means an educational institution, governmental agency, professional or trade association or foundation or a private firm or individual whose primary function is continuing education.

**History:** Cr. Register, July, 1986, No. 367, eff. 8-1-86; CR 17-048: cr. (3m), (3n) Register July 2018 No. 751, eff. 8-1-18; correction in (3n) (d) made under s. 35.17, Stats., Register July 2018 No. 751; EmR 1823: emerg. renum. (1), (3) to FD 1.013 (1), (2), eff. 11-27-18; CR 18-075: renum. (1), (3) to FD 1.013 (1), (2), Register June 2019 No. 762, eff. 7-1-19.

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

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

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

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

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

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

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

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

(7) No more than 10 hours of the 15-hour requirement may be acquired through participation in board-approved online programs.

(8) Each contact or clock hour or lesson completed in a board-approved online program is equivalent to 1.0 continuing education credit hour.

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

(10) A funeral director may receive credit for attendance at a continuing education program which received approval after he or she attended the program, if the funeral director provides evidence of attendance satisfactory to the board.

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

**History:** Cr. Register, July, 1986, No. 367, eff. 8-1-86; am. (7), Register, November, 1998, No. 515, eff. 12-1-98; CR 01-063: cr. (4m) and am. (5), Register November 2001 No. 551, eff. 12-1-01; CR 17-048: r. and recr. (6), cr. (6m), am. (7), (8), cr. (11) Register July 2018 No. 751, eff. 8-1-18.

**FD 4.04 Approval of continuing education programs.** (1) Except as provided in sub. (8), to obtain approval of a continuing education program, the program provider shall submit an application to the board on a form provided by the board. To be approved by the board, a continuing education program shall meet all of the following criteria:

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

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

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

(c) The program provider does one of the following:

1. The program provider of the continuing education program agrees to monitor the continuous attendance of participants and to furnish to each participant evidence of having attended and completed the program at the location of the program.

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

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

(a) Date and location of the program.

(b) Time segments scheduled in the program for presentation of subject areas specified in sub. (2).

(c) Name and title of the instructor.

(d) Name and title of the person requesting program approval on behalf of the provider.

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

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

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

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

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

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

(8) A continuing education course sponsored by a national, international or state funeral director's association, or an educa-

tional institution accredited by the American Board of Funeral Service Education or approved by the Academy of Professional Funeral Service Practice or otherwise deemed to be equivalent by the board, which satisfies the criteria established in sub. (1) (a) to (c) and s. FD 4.045, shall be approved by the board without receipt of a course approval application from the program provider.

**History:** Cr. Register, July, 1986, No. 367, eff. 8-1-86; correction in (6) made under s. 13.93 (2m) (b) 12., Stats., Register, September, 1993, No. 453; am. (2) (intro.), Register, November, 1998, No. 515, eff. 12-1-98; CR 07-049: am. (1) (intro.), cr. (8) Register March 2008 No. 627, eff. 4-1-08; correction in (8) made under s. 13.92 (4) (b) 7., Stats., Register March 2008 No. 627; CR 16-011: am. (8) Register September 2016 No. 729, eff. 10-1-16; CR 17-048: renum. (1) (c) to (1) (c) 1. and am., cr. (1) (c) (intro.), renum. (1) (d) to (1) (c) 2. and am., am. (6) Register July 2018 No. 751, eff. 8-1-18; correction in (8) made under s. 13.92 (4) (b) 7., Stats., Register July 2018 No. 751.

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

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

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

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

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

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

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

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

**History:** CR 17-048: cr. Register July 2018 No. 751, eff. 8-1-18.

STATE OF WISCONSIN  
FUNERAL DIRECTORS EXAMINING BOARD

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

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PROPOSED ORDER

An order of the Funeral Directors Examining Board to repeal FD 4.03 (4) and (8); to amend FD 4.02 (1), (2), (4m), (5) and (7); and to create FD 4.02 (1m) ( relating to continuing education for funeral directors.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** Section 445.06, Stats.

**Statutory authority:** Sections 15.08 (5) (b), 227.11 (2) (a), and 445.03 (2), Stats.

**Explanation of agency authority:**

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.”

**Related statute or rule:** None.

**Plain language analysis:**

This rule project removes a duplicative continuing education requirement for funeral directors. Section FD 4.03 (4) requires funeral directors to log at least 3 hours of

continuing education in professional conduct, business ethics or legal aspects specifically related to the practice in the profession. Section FD 4.03 (4m) unnecessarily duplicates this requirement. The rule also clarifies that a “clock hour” for the purposes of obtaining continuing education credit is at least 50 minutes.

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

The federal government does not regulate continuing education requirements for funeral directors.

**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:**

A public hearing on scope was held at the board’s August 27, 2019 meeting. No comments were received.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois specifies that a continuing education hour is a minimum of 50 minutes of attendance at a board approved course. Illinois rules require at least 24 hours of continuing education credit per biennium, with at least 6 credit hours related to the practice of embalming, 6 related to the practice of funeral directing, and no more than 6 related to insurance (68 Ill. Admin Code s. 1250.220 (a) and (b) 5.).

**Iowa:** Iowa specifies that an hour of continuing education means at least 50 minutes spent by a license in actual attendance at and completion of a continuing education program (645 IAC 102.1). Funeral directors must complete 24 hours of continuing education each biennium. Two hours must be in current Iowa law and rules covering mortuary science content areas, and at least 12 hours must be in-person, or include live real-time interactive media (645 IAC 102.2 (1)).

**Michigan:** Michigan does not have continuing education requirements for funeral directors.

**Minnesota:** Minnesota requires 15 hours of continuing education for renewal of a license to practice. Three hours must be in body preparation, care or handling, three hours in professional practices, and three hours in regulation and ethics. Minnesota does not specify the length of a continuing education hour (Minn. Stats. 149A.40 (11)).

**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 repeal s. FD 4.03 (4) as it is duplicative of s. 4.03 (4m), and could cause confusion to stakeholders. The board also determined that clarification should be given

as to the length of time required for a course to be eligible to receive a credit hour of continuing education.

**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 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.

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TEXT OF RULE

SECTION 1. FD 4.02 (1m) is created to read:

**FD 4.02 (1m)** “Credit hour” means at least 50 minutes spent by a licensee in actual attendance and completion of, online or in person, a board-approved continuing education program.

SECTION 2. FD 4.03 (1) and (2) are amended to read:

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

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

SECTION 3. FD 4.03 (4) is repealed.

SECTION 4. FD 4.03 (4m), (5), and (7) are amended to read:

**FD 4.03 (4m)** At least 3 credit hours of the 15-hour requirement shall be in each of the subject areas specified in s. FD 4.04 (1) (a) 1. to 4.

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

(7) No more than 10 credit hours of the 15-hour requirement may be acquired through participation in board-approved online programs.

SECTION 5. FD 4.03 (8) is repealed.

SECTION 6. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

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(END OF TEXT OF RULE)  
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## Chapter FD 6

## BURIAL AGREEMENTS FUNDED WITH LIFE INSURANCE

FD 6.01	Authority and purpose.
FD 6.02	Definitions.
FD 6.03	Registration requirements.
FD 6.04	Change of employment.
FD 6.05	Training requirements.
FD 6.06	Approval of educational training programs.

FD 6.07	Standards for burial agreements funded by life insurance proceeds.
FD 6.08	Contractual standards for agents and operators of funeral establishments.
FD 6.09	Requirements for terminating a burial trust.
FD 6.10	Solicitation of prospective purchasers of burial agreements funded with the proceeds of a life insurance policy.

**FD 6.01 Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.08 (5) (b), 227.11 (2), 445.125 (3m) (b) 2. b. and (j) 1. and 2., Stats., and govern the registration and regulation of agents.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.02 Definitions.** In this chapter:

(1) “Agent” means an authorized representative of a funeral director or an operator of a funeral establishment who sells or solicits the sale of a burial agreement that is funded with the proceeds of a life insurance policy.

(4) “Evidence of attendance” means an official transcript, student grade report, or a written form furnished by a program provider which specifies satisfactory completion of an educational training program.

(5) “Program provider” means an educational institution, governmental agency, professional or trade association or foundation or a private firm or individual whose function is educational training programming.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; correction in (3) made under s. 13.92 (4) (b) 6., Stats., Register January 2012 No. 673; **EmR1823:** emerg. r. (2), (3) eff. 11-27-18; **CR 18-075:** r. (2), (3) Register June 2019 No. 762, eff. 7-1-19.

**FD 6.03 Registration requirements.** (1) A licensed funeral director or operator of a funeral establishment shall submit an application with all of the following information:

(a) The identity of any agent authorized by s. 445.125 (3m), Stats., to sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy on behalf of the licensed funeral director or operator of a funeral establishment.

(b) The agent’s Wisconsin life insurance intermediary’s license number and expiration date, and the insurer or insurers whom the agent is listed to represent.

(c) Evidence satisfactory to the board that the agent has successfully completed at least 20 hours of approved educational training as provided in s. FD 6.05. An agent who is a Wisconsin licensed funeral director and a Wisconsin licensed insurance intermediary shall be exempt from having to complete the 20 hours of approved educational training as provided in s. FD 6.05.

(2) A copy of each contract between an agent and an operator of a funeral establishment shall accompany the application.

(3) The application shall be accompanied by the fee authorized in s. 440.05 (1), Stats.

(4) Upon receipt of an application and payment of the fees, the board shall issue a registration card to an agent.

(5) No agent may sell or solicit the sale of a burial agreement funded with the proceeds of a life insurance policy unless he or she is registered by the board.

**Note:** Application forms are available upon request to the Funeral Directors Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.04 Change of employment.** A licensed funeral director or operator of a funeral establishment shall notify the board

within 30 calendar days of the termination of any contract he or she has with an agent.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.05 Training requirements.** (1) Educational training shall include the following subjects:

(a) The funeral industry practice regulations of the federal trade commission, and any other applicable federal statutes and regulations related to the funeral service industry including, but not limited to, the occupational safety and health act.

(b) The funeral industry practice regulations contained in the Wisconsin statutes and administrative code including, but not limited to, burial agreements and any applicable impoverishment provisions.

(c) The ethics of funeral service marketing.

(d) Funeral service and final disposition options.

(e) Funding mechanisms for burial agreements.

(f) Financial benefits available at the time of death including, but not limited to, veteran’s benefits, social security income, pensions, and human services benefits.

(g) Grief communication skills.

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

(3) Credit for attendance at an educational training program shall be given to an agent if all of the following apply:

(a) The program has been approved by the board under s. FD 6.06.

(b) The agent provides evidence of attendance satisfactory to the board.

(c) The agent takes and successfully passes a comprehensive examination administered by the program provider.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.06 Approval of educational training programs.**

(1) To obtain approval of an educational training program, the program provider shall submit an application to the board on a form provided by the board which shall include evidence of all of the following:

(a) Information that the program relates to the following subject areas:

1. The funeral industry practice regulations of the federal trade commission, and any other applicable federal statutes and regulations related to the funeral service industry including, but not limited to, the occupational safety and health act.

2. The funeral industry practice regulations contained in the Wisconsin statutes and administrative code including, but not limited to, burial agreements and applicable impoverishment provisions.

3. The ethics of funeral service marketing.

4. Funeral service and final disposition options.

5. Funding mechanisms for burial agreements.

6. Financial benefits available at the time of death including, but not limited to, veteran's benefits, social security income, pensions, and human services benefits.

7. Grief communication skills.

(b) The program is available to all agents regardless of membership or affiliation with any organization.

(c) The program provider agrees to monitor the continuous attendance of participants and to furnish to each participant with evidence of attendance.

(2) A separate application shall be submitted for each educational training program. Approval of an educational training program expires on December 31 of each odd-numbered year.

(3) A program provider shall apply for approval of an educational training program at least 30 days prior to its presentation.

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

(5) In-service educational training programs sponsored by a funeral establishment or insurance company are not eligible for credit unless the programs are available to all agents and meet all other requirements in this section.

**Note:** Application forms are available upon request to the Funeral Directors Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.07 Standards for burial agreements funded by life insurance proceeds.** A burial agreement shall be in written form that is clear and conspicuous, and shall include all of the following:

(1) The identity of the funeral establishment and the insurer or insurers that the agent represents.

(2) The identity of the funeral establishment that will be used to provide the funeral services or merchandise under the agreement.

(3) The nature and extent of any price guarantees for the funeral merchandise or funeral services, or any other guarantees that exist.

(4) Information that a life insurance policy is involved in or connected to, or is being used to fund, the burial agreement.

(5) The type of insurance instrument that is being used to fund the burial agreement.

(6) The effect on the burial agreement of all of the following:

(a) Changing the life insurance policy, including, but not limited to, changing the assignment of the policy proceeds, changing the beneficiary designation, or changing the use of the proceeds.

(b) Any penalties incurred by the policyholder as a result of failing to make premium payments.

(c) Any penalties incurred or money received as a result of cancellation or surrender of the life insurance policy.

(7) A statement of funeral goods and services selected under the burial agreement and the price of each item or service provided under the burial agreement, including a statement as to whether the purchase price of the funeral merchandise and services are guaranteed at the time the burial agreement is arranged or whether the price is to be determined at the time of need. If the price of funeral merchandise or services is to be determined at the time of need, those prices may not exceed the prices as set forth in the funeral establishment's general price list required under the funeral industry practices regulations of the federal trade commission.

(8) All information concerning what occurs, and whether any entitlements arise, if there is a difference between the proceeds of the life insurance policy and the amount of money actually needed to fund the burial agreement.

(9) Any restrictions, including geographic restrictions, or penalties relating to delivery or performance under the burial agreement, including any restrictions or penalties relating to the inability of the operator of the funeral establishment to perform.

(10) A statement as to whether the sales commission or other form of compensation is being paid to the agent who sells or solicits the sale of a burial agreement and the life insurance used to fund the burial agreement and, if so, the identity of any other persons to whom the commission or other compensation is paid.

(11) The following statement in not less than 12-point bold-face type: "**Burial agreements are regulated by the Wisconsin Funeral Directors Examining Board. Should you have a complaint, please contact the Board at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or by telephone at (608) 266-5511.**"

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.08 Contractual standards for agents and operators of funeral establishments.** A copy of each contract between an agent and an operator of a funeral establishment shall be sent to the board along with the agent's application for registration as required in s. FD 6.03. A contract between an agent and an operator of a funeral establishment shall include all of the following:

(1) A statement that the agent is currently licensed as a life insurance intermediary in Wisconsin and is currently listed with an insurer or insurers who is authorized to sell life insurance used to fund a burial agreement in Wisconsin.

(2) A statement that the agent has received the required training pursuant to s. 445.125 (3m) (b) 2. a., Stats., and will obtain any additional training as required by the board.

(3) A statement that the agent shall immediately notify the operator of the funeral establishment at any time while the contract between the agent and operator of the funeral establishment is in effect if any of the following occur:

(a) The agent's life insurance license is suspended or revoked.

(b) There are any changes to listings with insurers.

(4) A statement that the agent will abide by the funeral industry practices regulations of the federal trade commission, and all applicable Wisconsin statutes and rules.

(5) A statement as to whether the sales commission or other form of compensation is being paid to the agent who sells or solicits the sale of a burial agreement and the life insurance used to fund the burial agreement and, if so, the identity of any other persons to whom the commission or other compensation is paid.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.09 Requirements for terminating a burial trust.** Written notice shall be sent to the board by an agent, licensed funeral director or operator of the funeral establishment when a consumer terminates a trust as established under s. 445.125 (1), Stats. The following information shall be included in the written notice that an agent, funeral director, or operator of a funeral establishment gives to a consumer and to the board when the consumer terminates a burial trust and converts to a burial agreement funded by the proceeds of a life insurance policy:

(1) The name of the individual for whom the existing burial trust is intended.

(2) The date on which the original burial trust agreement was made.

(3) The name of the funeral establishment that was designated on the original burial trust agreement.

(4) The name of the bank, trust company, savings and loan association, or savings bank in which the burial trust funds have been held.

(5) The current value of the trust.

(6) The name of the life insurance company issuing the life insurance policy intended to fund the burial agreement.

(7) The name of the agent who sells the life insurance policy.

(8) The name of the funeral establishment that will be designated on the life insurance policy as the beneficiary.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97.

**FD 6.10 Solicitation of prospective purchasers of burial agreements funded with the proceeds of a life insurance policy.** (1) **AUTOMATED TELEPHONE CALLS.** A funeral director, owner of a funeral establishment, or agent may only initiate a telephone call using an automated telephone dialing system or an artificial or prerecorded voice system for the purpose of selling or soliciting a burial agreement funded by the proceeds of a life insurance policy when calling a residential or business telephone line, provided that the funeral director, owner of a funeral establishment, or agent obtains the prior express written consent of the party to be called.

(2) **LIVE-VOICE TELEPHONE CALLS.** A funeral director, owner of a funeral establishment, or an agent may initiate a telephone call by live-voice for the purpose of selling or soliciting a burial agreement funded with the proceeds of a life insurance policy only if all of the following apply:

(a) A funeral director, owner of a funeral establishment, or agent sends written notice to the prospective purchaser at least 10 days in advance of the call, advising the prospective purchaser of all of the following:

1. The name of the funeral director, owner of a funeral establishment, or agent who will be calling, the name of the person or entity upon whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

2. That the call will only be made between the hours of 9:00 a.m. to 7:00 p.m. central time.

3. The specific reason for the call in no less than 12-point type.

4. That a prospective purchaser may call the person or entity upon whose behalf the call is being made to request that no call be made. This statement shall be in no less than 14-point, bold-faced type.

(b) The telephone caller immediately begins the conversation by providing the called party with the name of the funeral director, owner of the funeral establishment, or agent, the name of the person or entity upon whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

(c) The telephone caller records the name and telephone number of persons who request placement on a do-not-call list at the time the request is made and the caller agrees to make no further calls to a person who has requested placement on the list.

(d) A telephone call is only made to a prospective purchaser or the prospective purchaser's authorized representative, in a hospital, health care facility, elderly home or similar establishment, if the prospective purchaser or the prospective purchaser's authorized representative requests the call.

(e) A telephone call is only made to a prospective purchaser of a burial agreement funded by the proceeds of a life insurance policy whose death is imminent or appears to be imminent, if the prospective purchaser or the prospective purchaser's authorized representative requests the call.

(3) **DOOR-TO-DOOR SOLICITATION.** A funeral director, owner of a funeral establishment, or an agent may not contact a prospective purchaser of a burial agreement funded with the proceeds of a life insurance policy by door-to-door solicitation.

**History:** Cr. Register, October, 1997, No. 502, eff. 11-1-97; renum. and am. (1) (intro.) to be (1), (2) (b) (intro.), 1. to 4., to be (2) (a) (intro.), 1. to 4., r. (1) (a) to (c), (2) (a), (4) and (5), cr. (2) (b) to (e), r. and recr. (3), Register, July, 1999, No. 523, eff. 8-1-99; reprinted to correct printing error in (3), Register, November, 1999, No. 527.

STATE OF WISCONSIN  
FUNERAL DIRECTORS EXAMINING BOARD

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

An order of the Funeral Directors Examining Board to repeal FD 6.09 (5), and to amend FD 6.07 (11), relating to burial agreements funded with life insurance.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

**Statutes interpreted:** Section 445.125 (3m) (h) and (j), Stats.

**Statutory authority:** Sections 15.08 (5) (b), 227.11 (2) (a), and 445.125 (3m) (j), 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..”

Section 445.125 (3m) (j) 1. d., Stats., “The examining board shall promulgate rules establishing all of the following...[t]he form and content of written notice that a licensed funeral director, operator of a funeral establishment or agent of a licensed funeral director or operator of a funeral establishment is required to provide to the examining board under par. (h).”

**Related statute or rule:** None.

**Plain language analysis:**

This rule project removes the requirement that a funeral director, licensed intermediary, or operator of a funeral establishment include the value of the trust when submitting

notice to the board that a burial trust is being terminated and replaced with a life insurance policy. It also corrects obsolete contact information for the board.

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

While the Federal Trade Commission (FTC) does regulate the sale of funeral goods and services, the “funeral rule” does not speak to the issue of the termination of burial trusts or the funding of burial agreements with life insurance.

**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:**

The Funeral Directors Examining Board held a preliminary hearing on the statement of scope at its August 27, 2019 meeting. No comments were received.

**Comparison with rules in adjacent states:**

**Illinois:** Illinois requires the seller of the pre-need contract to notify the State Comptroller if the trustee of the fund is being changed (225 ILCS 45/2 (g)). Illinois law does not explicitly require the seller of a burial agreement to notify the board when a burial trust is terminated and replaced with a life insurance policy.

**Iowa:** Iowa does not require the seller of a burial agreement to notify the board when a burial trust is terminated and replaced with a life insurance policy, but the consumer must consent to this change, and the seller must retain a record of the original trust agreement (Iowa Stats. s. 523A.401 (6)).

**Michigan:** Michigan requires the seller to provide notice to the consumer when a prepaid burial contract is transferred or assigned (MCL 328.223 (6)). The required content of the notice is not enumerated in rule or statute, nor does it appear that notice must be provided to the Michigan Department of Licensing and Regulatory Affairs.

**Minnesota:** Minnesota law does not specify a procedure for the termination of a burial trust and replacement with a life insurance policy.

**Summary of factual data and analytical methodologies:**

As a result of the board’s review of its rules under s. 227.29, Stats., the board determined that the requirement to include the value of the trust in the notice of termination was economically burdensome. The board also determined that the contact information for the board included in s. FD 6.07 (11) was obsolete. This rule project will revise the FD rules to resolve these issues.

**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 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 608-2660-0955; 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.

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TEXT OF RULE

SECTION 1. FD 6.07 (11) is amended to read:

**(11) The following statement in not less than 12–point boldface type: “Burial agreements are regulated by the Wisconsin Funeral Directors Examining Board. Should you have a complaint, please contact the Board at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or by telephone at (608) 266–5511.”**

SECTION 2. FD 6.09 (5) is repealed.

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

(END OF TEXT OF RULE)

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# 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

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Board Chairperson

\_\_\_\_\_  
Date Submitted