



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-163

Comments

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

2. Form, Style and Placement in Administrative Code

a. In SECTION 3, the insertion of “in-person” modifies the noun “topics”, rather than the class, which may not clearly set forth the board’s stated intent of requiring that the class be completed in person. For clarity, rather than modifying the nature of the class content under s. FD 1.056, the board should consider inserting “in-person” prior to “completion” in s. FD 1.055, the rule that creates the class requirement.

b. In s. FD 1.075 (2) (b) and 2.03 (1r) (b), replace “Other preparation” with “Preparing” to achieve a form consistent with the other subunits.

c. In s. FD 1.075 (2) (c), consider inserting “funeral” prior to “services” so as to use the defined term that, under the changes in SECTION 8, will apply to all administrative code chapters governing funeral directors. Note that while the new definition of “funeral services” under SECTION 8 requires that a body be present, s. FD 1.075 (2) (c) would only authorize an apprentice to conduct funeral services under supervision when a body is not present.

d. SECTIONS 7 and 8 may be combined into one section, as the two subsections are affected by the same treatment. [s. 1.04 (2) (a) 4., Manual.]

e. In s. FD 1.03 (1r), the board should consider creating an additional paragraph similar to s. FD 1.075 (2) (c) that specifies that a funeral director apprentice may conduct services where a dead human body is not present when under the supervision of a licensed funeral director. As drafted, the two provisions appear inconsistent.

4. Adequacy of References to Related Statutes, Rules and Forms

In the rule summary's plain language analysis, as well as the rule summary's summary of factual data and analytical methodologies, consider replacing "the FD suite" with "all administrative code chapters governing funeral directors" or "chs. FD 1 to 4 and 6".

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

a. Under the rule summary's explanation of agency authority, replace "Shall" with "[s]hall". Also, consider inserting "states:" or "provides:" between each statutory citation and the quoted text, so as to form complete sentences.

b. In the rule summary's summary of federal regulations, insert "that" after "supervision".

c. In the rule summary, insert a period at the end of the citation to Iowa's law, to match the citation format used for citations to other adjacent states' laws.

d. In the rule summary's description of Minnesota law, delete "to" prior to "prepare" and replace "makes" with "make".

e. In SECTION 7, delete the semi-colon after "body" because that punctuation does not exist under current code.

f. For clarity, consider the following changes to SECTION 8:

(1) Remove the comma between "body" and "where".

(2) Delete "and" after "present".

(3) Retain use of "including" rather than "includes".

(4) Use the plural form of "visitation" as the other words in the list are pluralized.

g. Insert a period at the end of SECTION 9.



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

The rule repeals the requirement that a funeral director or operator, or his or her authorized agent, report the current value of the burial trust that is being terminated and replaced by the proceeds of a life insurance policy intended to fund a burial agreement. This type of life insurance policy is often sold by funeral directors. In its fiscal estimate and summary of factual data and analytical methodologies, the board cites economic burden and difficulty in obtaining information as the reason for the changes. The board may consider also including this content in the plain language analysis, so it is more easily accessible by typical readers. Similarly, the board should also consider explaining why the value of the life insurance policy replacing the trust should not be reported.