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**FUNERAL DIRECTORS EXAMINING BOARD**  
**Room N208, 4822 Madison Yards Way, 2<sup>nd</sup> Floor, Madison**  
**Contact: Christian Albouras (608) 266-2112**  
**May 19, 2020**

*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 January 22, 2020 (4-11)**

**C. Conflicts of Interest**

**D. Administrative Matters – Discussion and Consideration**

- 1) Department, Staff and Board Updates
- 2) Board Members – Term Expiration Dates
  - a. Dawn Adams – 7/1/2023
  - b. Marc Eernisse – 7/1/2022
  - c. Eric Lengell – 7/1/2016
  - d. Marla Michaelis – 7/1/2021
  - e. Joseph Schinkten – 7/1/2023
  - f. Vacant – Public Member

**E. Administrative Rule Matters – Discussion and Consideration**

- 1) Status Updates on CR 19-161 Relating to Burial Agreements Funded with Life Insurance, CR 19-162 Relating to Continuing Education for Funeral Directors, and CR 19-163 Relating to Licensure and Standards of Practice for Funeral Directors and Funeral Director Apprentices
- 2) Scope Statement for FD 1 Relating to Funeral Director License Application Requirements **(12-13)**
- 3) Scope Statement for FD 1 and 4 Relating to Education Requirements for Licensure and Continuing Education Requirements **(14-15)**
- 4) Pending and Possible Rulemaking Matters

**F. Education and Examination Matters – Discussion and Consideration**

- 1) Online Apprenticeship Course

**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) Administrative Rule Matters
- 10) Legislative and Policy 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. Credentialing Matters

##### 1) Application Reviews

- a. Paul Mann, Funeral Director Applicant **(16-55)**

#### J. Deliberation on DLSC Matters

##### 1) Case Closing

- a. 19 FDR 016 – S.K. and S.K.F.C.S. **(56-59)**

#### K. 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

L. Consulting with Legal Counsel

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

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

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

O. Delegation of Ratification of Examination Results and Ratification of Licenses and Certificates

**ADJOURNMENT**

**NEXT MEETING: AUGUST 25, 2020**

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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  
JANUARY 22, 2020**

**PRESENT:** A. Dawn Adams, Marc Eernisse, Eric Lengell, Marla Michaelis, Joseph Schinkten

**STAFF:** Valerie Payne, 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 9:30 a.m. A quorum was confirmed with five (5) board members present.

**ADOPTION OF AGENDA**

**MOTION:** Joseph Schinkten moved, seconded by Eric Lengell, to adopt the Agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES OF DECEMBER 19, 2019**

**MOTION:** Eric Lengell moved, seconded by Marla Michaelis, to approve the Minutes of December 19, 2019 as published. Motion carried unanimously.

**PUBLIC HEARING: CR 19-163, RELATING TO LICENSURE AND STANDARDS OF PRACTICE FOR FUNERAL DIRECTORS**

**Review and Respond to Clearinghouse Report and Public Hearing Comments**

**MOTION:** Joseph Schinkten moved, seconded by A. Dawn Adams, to reject Clearinghouse comment numbers 2(b), 2(c), 2(e), and to accept all remaining Clearinghouse comments for Clearinghouse Rule 19-163, relating to licensure and standards of practice for funeral directors and funeral director apprentices. Motion carried unanimously.

*(Eric Lengell was out of the room for this vote.)*

**MOTION:** A. Dawn Adams moved, seconded by Marla Michaelis, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 19-163, relating to licensure and standards of practice for funeral directors and funeral director apprentices, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**PUBLIC HEARING: CR 19-162, RELATING TO CONTINUING EDUCATION FOR FUNERAL DIRECTORS**

**Review and Respond to Clearinghouse Report and Public Hearing Comments**

**MOTION:** Joseph Schinkten moved, seconded by Marla Michaelis, to reject Clearinghouse comment number 5(b), and to accept all remaining Clearinghouse comments for Clearinghouse Rule 19-162, relating to continuing education for funeral directors. Motion carried unanimously.

**MOTION:** Marla Michaelis moved, seconded by A. Dawn Adams, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 19-162, relating to continuing education for funeral directors, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**PUBLIC HEARING: CR 19-161, RELATING TO BURIAL AGREEMENTS FUNDED WITH LIFE INSURANCE**

**Review and Respond to Clearinghouse Report and Public Hearing Comments**

**MOTION:** Marla Michaelis moved, seconded by Eric Lengell, to accept Clearinghouse comment number 5, for Clearinghouse Rule 19-161, relating to burial agreements funded with life insurance, except for the language of the last sentence. The Board expressly rejects this portion of the comment: "Similarly, the board should also consider explaining why the value of the life insurance policy replacing the trust should not be reported". Motion carried unanimously.

**MOTION:** Joseph Schinkten moved, seconded by Eric Lengell, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule 19-161, relating to burial agreements funded with life insurance, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**ADMINISTRATIVE MATTERS**

**Election of Officers**

*Chairperson*

**NOMINATION:** Marla Michaelis nominated Marc Eernisse for the Office of Chairperson.

**NOMINATION:** A. Dawn Adams nominated Marla Michaelis for the Office of Chairperson. Marla Michaelis declined this nomination.

Valerie Payne, Executive Director, called for nominations three (3) times.

Marc Eernisse was elected as Chairperson by unanimous voice vote.

*Vice Chairperson*

**NOMINATION:** Marc Eernisse nominated Marla Michaelis for the Office of Vice Chairperson.

Valerie Payne, Executive Director, called for nominations three (3) times.

Marla Michaelis was elected as Vice Chairperson by unanimous voice vote.

*Secretary*

**NOMINATION:** Marla Michaelis nominated A. Dawn Adams for the Office of Secretary.

Valerie Payne, Executive Director, called for nominations three (3) times.

A. Dawn Adams was elected as Secretary by unanimous voice vote.

<b>ELECTION RESULTS</b>	
<b>Chairperson</b>	Marc Eernisse
<b>Vice Chairperson</b>	Marla Michaelis
<b>Secretary</b>	A. Dawn Adams

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

## **Delegation Motions**

### ***Document Signature Delegations***

**MOTION:** A. Dawn Adams moved, seconded by Eric Lengell, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

**MOTION:** Eric Lengell moved, seconded by Joseph Schinkten, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

### ***Delegated Authority for Urgent Matters***

**MOTION:** Marla Michaelis moved, seconded by Eric Lengell, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

### ***Delegation to Chief Legal Counsel Due to of Loss of Quorum***

**MOTION:** Marla Michaelis moved, seconded by A. Dawn Adams, to delegate the review of disciplinary cases to the Department's Chief Legal Counsel due to lack of/loss of quorum. Motion carried unanimously.

### ***Monitoring Delegations***

**MOTION:** Eric Lengell moved, seconded by Joseph Schinkten, to adopt the "Roles and Authorities Delegated to the Monitoring Liaison and Department Monitor" as presented in the January 22, 2020 agenda materials. Motion carried unanimously.

### ***Credentialing Authority Delegations***

#### **Delegation of Authority to Credentialing Liaison**

**MOTION:** Eric Lengell moved, seconded by Marc Eernisse, to delegate authority to the Credentialing Liaison(s) to serve as a liaison between DSPS and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them. Motion carried unanimously.

### **Delegation of Authority to DSPS When Credentialing Criteria is Met**

**MOTION:** Marla Michaelis moved, seconded by A. Dawn Adams, to delegate credentialing authority to DSPS to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review. Motion carried unanimously.

### **Delegation of Authority to Credentialing Liaison for Inspections When Change of Ownership Occurs**

**MOTION:** Joseph Schinkten moved, seconded by A. Dawn Adams, to delegate authority to the Credentialing Liaison to determine if an establishment inspection is required when changes of ownership occur. Motion carried unanimously.

### **Delegated Authority for Application Denial Reviews**

**MOTION:** Marc Eernisse moved, seconded by Marla Michaelis, that the Department's Attorney Supervisors, DLSC Administrator, or their designee are authorized to serve as the Board's designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential. Motion carried unanimously.

### ***Continuing Education Delegation***

**MOTION:** A. Dawn Adams moved, seconded by Marla Michaelis, to delegate authority to the Continuing Education Liaison(s) to review all issues related to continuing education, but to refer all matters that require action to the Board. Motion carried unanimously.

### ***Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies***

**MOTION:** Marla Michaelis moved, seconded by Joseph Schinkten, to authorize DSPS staff to provide national regulatory related bodies with all board member contact information that DSPS retains on file. Motion carried unanimously.

### ***Optional Renewal Notice Insert Delegation***

**MOTION:** Marla Michaelis moved, seconded by Eric Lengell to designate the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to provide a brief statement or link relating to board-related business within the license renewal notice at the Board's or Board designee's request. Motion carried unanimously.

***Legislative Liaison Delegation***

**MOTION:** A. Dawn Adams moved, seconded by Joseph Schinkten, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

***Travel Delegation***

**MOTION:** Marla Michaelis moved, seconded by A. Dawn Adams, to delegate authority to the Travel Liaison to approve any board member travel. Motion carried unanimously.

**ADJOURNMENT**

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

The meeting adjourned at 11:46 a.m.

DRAFT

**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: May 7, 2020 <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: May 19, 2020	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? 1. Status updates on CR 19-161 relating to burial agreements funded with life insurance, CR 19-162 relating to continuing education for funeral directors, and CR 19-163 relating to licensure and standards of practice for funeral directors and funeral director apprentices. 2. Scope Statement for FD 1 relating to funeral director license application requirements. 3. Scope Statement for FD 1 and 4 relating to education requirements for licensure and continuing education requirements.	
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: 1. Update on status of the board's rules that are currently pending legislative review. 2. Consider implementing scope statement for FD 1 relating to funeral director license application requirements (2017 Act 278 and 2019 Act 143). 3. Consider scope statement draft for FD 1 and 4 (2019 Act 137).			
11) Authorization			
<i>Jon Derenne</i>		May 7, 2020	
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.

# 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, or funeral director apprentice, to bring the rule text into conformity with statutory requirements. 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.

Approved for Implementation:

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Board Chairperson

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Date Submitted

# STATEMENT OF SCOPE

## Funeral Directors Examining Board

**Rule No.:** FD 1 and 4

**Relating to:** Education requirements for licensure and continuing education requirements

**Rule Type:** Both Permanent and Emergency

### 1. Finding/nature of emergency:

2019 Wisconsin Act 137 section 8 provides:

“(1) The funeral directors examining board may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2022, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

### 2. Detailed description of the objective of the proposed rule:

The purpose of this rule project is to review and revise the FD chapters to bring them into conformity with 2019 Wisconsin Act 137, and to revise the FD chapters to improve usability and to ensure they conform with current drafting standards.

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

2019 Wisconsin Act 137 changed the requirement that an applicant for a funeral director license must have 2 years of college education, instead requiring at least 24 college credits in a course of study approved by the board.

Act 137 also eliminates the requirement that the 16-hour course for certification as an apprentice must be completed prior to the 9-month mortuary science program. Act 137 would allow apprenticeship applicants to either complete the 16-hour certification course, or the 9-month mortuary science program prior to certification. Applicants who have completed the mortuary science program would be able to forego the 16-hour certification course.

Finally, Act 137 requires for the first renewal date after the Board has initially granted the license that the funeral director must have completed at least four hours of continuing education. The Board is to specify permitted or required subjects for the four hours of continuing education application for the first renewal, which must be subjects that the Board determines prepare a new licensee for practice as a funeral director.

The alternative to this rule project would be to not update the administrative rules to bring them into conformity with 2019 Wisconsin Act 137, which would result in a lack of clarity for stakeholders as to what the applicable requirements are for a funeral director apprenticeship or license.

### 4. Detailed explanation of statutory authority for the rule:

2019 Wisconsin Act 137 requires the Board to adopt rules regarding permissible or required content for the four hours of continuing education required of licensees in the first renewal period following initial licensure. Act 137 also gives the Board authority to promulgate emergency rules to implement the act without providing evidence that the rule is necessary for the preservation of the public peace, health, safety, or welfare.

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, depending on the complexity. 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:**

Individuals licensed in Wisconsin as funeral directors, funeral director apprentices, and those seeking licensure as funeral directors or funeral director apprentices.

**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:** None.

**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, [DSPSAdminRules@wisconsin.gov](mailto:DSPSAdminRules@wisconsin.gov), (608) 266-0955.

Approved for Publication:

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Board Chair

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Date Submitted