

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
FUNERAL DIRECTORS : CR 20-026
EXAMINING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

FD 1.056 (1) (i) is repealed and FD 1.055, as will be amended by CR 19-163 upon its effective date, is amended to remove the requirement that the 16-hour course for certification as an apprentice be completed in-person. The board has made this amendment in light of the difficulty in holding in-person classroom instruction during the COVID-19 epidemic.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Funeral Directors Examining Board held a public hearing on August 25, 2020. The following people either testified at the hearing, or submitted written comments:

Gabe Schauf, Program Coordinator/Instructor, Milwaukee Area Technical College (MATC) – Funeral Service Program.

The Funeral Directors Examining Board summarizes the comments received either by hearing testimony or by written submission as follows:

Mr. Schauf stated that MATC is currently holding the certification course in-person as a result of a determination that the program is essential. MATC prefers to hold the program in an in-person format, but supports moving forward with the rule project in the

event that the pandemic worsens or MATC is otherwise unable to continue offering the course in-person.

The Funeral Directors Examining Board is not modifying its rule-making proposal in response to public comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

All of the recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A.

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS
FUNERAL DIRECTORS	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 20-026)

ORDER

An order of the Funeral Directors Examining Board to repeal 1.056 (1) (i); and to amend FD 1.055, relating to certification courses for funeral director apprentices.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 445.03 (2), 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...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 445.03 (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.

(b) Grant licenses to funeral directors, certificates of registration to apprentices, and permits to operators of funeral establishments...”

Related statute or rule: None.

Plain language analysis:

FD 1.056 (1) (i) is repealed and FD 1.055, as will be amended by CR 19-163 upon its effective date, is amended to remove the requirement that the 16-hour certification course for certification as an apprentice be completed in-person.

Summary of, and comparison with, existing or proposed federal regulation: None.

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: N/A.

Comparison with rules in adjacent states:

Illinois:

Applicants for funeral director licensure must complete a 12 month internship within five years of applying for licensure (Ill. Admin. Code § 1250.135). A certification course does not appear to be required prior to beginning the internship, although internship candidates must have completed a course of study in mortuary science (Id. at § 125.120).

Iowa:

Iowa requires completion of a 12 month internship prior to licensure as a funeral director. There do not appear to be education or examination requirements prior to beginning an internship (IAC § 645—101.2 (1)).

Michigan:

Michigan requires applicants for funeral director licensure to complete a one year resident trainee program. Training may begin after completing the required professional education for licensure, but there does not appear to be a certification course that must be taken other than the required college credits (MCL § 339.1808).

Minnesota:

Funeral director internship applicants must first have completed a bachelors in mortuary science, a bachelor's in science plus a course of study in mortuary science, or equivalent, and must pass both national competency and state specific statutes and rules examinations. There does not appear to be an internship certification course requirement other than the required college degree (MN Stats. § 149A.20 (6)).

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board seeks to pursue a rule change that would allow remote instruction for the 16-hour course required for certification as a funeral director apprentice. Given the nature of the Covid-19 epidemic, in-person instruction is not desirable or possible for many applicants and course providers.

The alternative of not implementing this rule would be to deprive funeral director apprentice applicants of certification due to not being able to meet the in-person instruction requirement of the 16-hour certification course.

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

The rule was posted for 14 days on the department website to solicit economic impact comments. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

None.

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:

The public comment period has closed.

TEXT OF RULE

SECTION 1. FD 1.055, as affected by CR 19-163, is amended to read:

FD 1.055 Certification class requirement. In addition to s. FD 1.05, the applicant must provide evidence of completion of ~~an in-person~~ a 16-hour certification class approved by the board.

SECTION 2. FD 1.056 (1) (i) is repealed.

SECTION 3. EFFECTIVE DATES. The rules adopted in this order shall take effect as follows:

(1) Section 1 of this rule takes effect on the effective date of CR19-163, or on the first day of the month following publication in the Wisconsin Administrative Register pursuant to s. 227.22 (2) (intro.), Stats., if CR 19-163 has taken effect prior to the publication of this rule. If CR 19-163 does not take effect, SECTION 1 of this rule is void.

(2) Section 2 of this rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to 227.22 (2) (intro.), Stats., unless CR 19-163 has taken effect prior to the publication of this rule, in which case SECTION 2 of this rule is void.

(END OF TEXT OF RULE)

This Proposed Order of the Funeral Directors Examining Board is approved for submission to the Governor and Legislature.

Dated August 31, 2020

Marc Eernisse / c.a.

Chairperson

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date July 14, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) FD 1	
4. Subject Certification Courses for Funeral Director Apprentices	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0.00	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The Covid-19 epidemic has severely restricted the ability of funeral director apprentice applicants to complete their 16-hour required certification course in an "in-person" format as required by administrative rule. Given the shortage of funeral director practitioners in Wisconsin, it is necessary to facilitate the certification of new apprentices. Therefore, the Funeral Directors Examining Board seeks to temporarily repeal the administrative rule provision requiring the course be completed in-person at least until in-person instruction becomes possible once again. .	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The rule draft was posted for 14 days on the department's website to solicit economic impact comments from businesses, local governmental units, and individuals. No comments were received.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA. The rule draft was posted for 14 days on the department's website to solicit economic impact comments from local governmental units. No comments were received.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) None.	
15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to allow funeral director apprentice applicants to take their required 16-hour certification course remotely during the Covid-19 epidemic. Not implementing the rule will impose a hardship on applicants who may not be able to attend an in-person class.	
16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is to increase access to the funeral director apprentice certification course during the Covid-19 epidemic.	
17. Compare With Approaches Being Used by Federal Government	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Applicants for funeral director licensure must complete a 12 month internship within five years of applying for licensure (Ill. Admin. Code § 1250.135). A certification course does not appear to be required prior to beginning the internship, although internship candidates must have completed a course of study in mortuary science (Id. at § 125.120).

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Iowa requires completion of a 12 month internship prior to licensure as a funeral director. There do not appear to be education or examination requirements prior to beginning an internship (IAC § 645—101.2 (1)).

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19. Contact Name	20. Contact Phone Number
Jon Derenne	(608) 266-0955

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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