

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
FUNERAL DIRECTORS : CR 19-162
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:

This rule project removes a duplicative continuing education requirement for funeral directors. Section FD 4.03 (4m) 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 (4) unnecessarily duplicates this requirement. The rule also clarifies that a “credit hour” for the purposes of obtaining continuing education credit is at least 50 minutes. Finally, the rule repeals FD 4.03 (8) as it is obsolete in light of the creation of a new section of the code defining “credit hour.”

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 January 22, 2020. No comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 5. b.: In the board’s analysis for the proposed rule, the descriptions for the analysis and supporting documents and fiscal estimate and economic impact analyses should be revised from future tense to past tense.

Response: The descriptions and supporting documents appear to be in the correct tense. Therefore, the board rejects this comment.

All of the remaining 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 19-162)

PROPOSED ORDER

An order of the Funeral Directors Examining Board to repeal FD 4.03 (4) and (8); to amend FD 4.03 (1), (2), (4m), (5), (6) 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.

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 (4m) 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 (4) unnecessarily duplicates this requirement. The rule also clarifies that a “credit hour” for the purposes of obtaining continuing education credit is at least 50 minutes. Finally, the rule repeals FD 4.03 (8) as it is obsolete in light of the creation of a new section of the code defining “credit hour.”

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 licensee 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)), therefore it appears the plain meaning of “hour” as 60 minutes would apply.

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 was posted for 14 days 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:

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 the hearing scheduled for 9:30 AM on January 22, 2020 to be included in the record of rule-making proceedings.

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), (6) 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).

(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 credit hour of presentation.

(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.

(END OF TEXT OF RULE)

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

Dated 1.24.2020

Marc A. Sernune
Chair

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected</p>	<p>2. Date December 17, 2019</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) FD 4</p>	
<p>4. Subject Continuing Education</p>	
<p>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</p>	<p>6. Chapter 20, Stats. Appropriations Affected</p>
<p>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</p>	
<p>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)</p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>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</p>	
<p>11. Policy Problem Addressed by the Rule 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.</p>	
<p>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 proposed rule was posted on the department website for 14 days to solicit economic impact comments from businesses, representative associations, local governmental units, and individuals that may be affected by the rule. No comments were received.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. No governmental units participated in the development of the EIA.</p>	
<p>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) This proposed rule will not have a significant impact on specific businesses, business sectors, public utility rate payers, local governmental units, or the state's economy as a whole.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule The benefit of implementing the rule is to improve the readability of the board's continuing education chapter to insure credential holders are not confused as to the requirements, and to clarify the length of a credit hour. The alternative to implementing the rule is to leave a provision in the chapter that duplicates the requirements already enumerated in another provision, therefore causing a potentially confusing situation for credential holders.</p>	
<p>16. Long Range Implications of Implementing the Rule</p>	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

The long range implication of implementing the rule is that the continuing education chapter will provide additional guidance on what is required for a credit hour, and make the chapter more user friendly.

17. Compare With Approaches Being Used by Federal Government

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

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

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)).

19. Contact Name

Jon Derenne, Administrative Rules Coordinator

20. Contact Phone Number

(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:

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
-

