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**VIRTUAL/TELECONFERENCE**  
**FUNERAL DIRECTORS EXAMINING BOARD**  
**Virtual, 4822 Madison Yards Way, Madison**  
**Contact: Carl Hampton (608) 266-2112**  
**November 17, 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 (1-4)**
- B. Approval of Minutes of August 25, 2020 – Virtual/Teleconference (5-7)**
- C. Conflicts of Interest
- D. Administrative Matters – Discussion and Consideration**
  - 1) Department, Staff and Board Updates
  - 2) Board Members – Term Expiration Dates
- E. 9:30 A.M. PUBLIC HEARING: Clearinghouse Rule FD 1, Relating to Application Materials (8-17)**
  - 1) Review and Consider Public Comments and Clearinghouse Reports
- F. 9:30 A.M. PUBLIC HEARING: Clearinghouse Rule FD 1 and 4, Relating to Education and Continuing Education for Licensure (18-25)**
  - 1) Review and Consider Public Comments and Clearinghouse Reports
- G. Administrative Rule Matters – Discussion and Consideration**
  - 1) Status Updates on Pending Rules
    - a. EmR 2019 – FD 1 Certification Courses for FD Apprentices
    - b. FD 1 Permanent – Certification Courses for FD Apprentices
    - c. FD 1 and 2, FD 4 and FD 6
  - 2) CR 20-044 (FD 1), Relating to Application Materials **(26-31)**
  - 3) CR 20-045 (FD 1 and 4), Relating to Education and Continuing Education Required for Licensure **(32-35)**
  - 4) Administrative Rules Reporting Requirements Under s. 227.29, Stats. **(36-38)**
  - 5) Pending and Possible Rulemaking Matters

- H. Public Agenda Request: Consider Modifying Continuing Education Requirements for Maintaining a Funeral Director License in Light of COVID-19 Related Class Cancellations – Discussion and Consideration**
- I. Wisconsin Funeral Director Apprenticeship Training Workbook – Discussion and Consideration**
- J. Board Member Participation in Outside Stakeholder Groups – Discussion and Consideration**
- K. COVID 19 – Discussion and Consideration**
- L. Speaking Engagements, Travel, or Public Relation Requests, and Reports**
  - 1) Attendance Report: ICFSEB Regulatory Essentials – Board Training Event on October 28 and 29, 2020 – A. Dawn Adams, Marc Eernisse, Joseph Schinkten
- M. 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
- N. 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.).**

**O. Deliberation on DLSC Matters**

**1) Proposed Stipulations, Final Decisions and Orders**

- a. 16 FDR 002 – JD Davis Enterprises, LLC, d.b.a. JD Davis Funeral Home **(39-47)**
- b. 16 FDR 020 – JD Davis Enterprises, LLC, d.b.a. JD Davis Funeral Home, Cheryl L. Shilts **(48-63)**
- c. 18 FDR 009 – Tim S. Bratley, Bratley Funeral Home **(64-71)**
- d. 19 FDR 007 – Jeffrey J. Stahl, Stahl Funeral Home, LLC **(72-77)**
- e. 19 FDR 010 – JD Davis Enterprises, LLC, d.b.a. JD Davis Funeral Home, Cheryl L. Shilts **(78-93)**
- f. 19 FDR 014 – Cheryl L. Shilts **(94-101)**

**2) Case Closings**

- a. 18 FDR 017 – M.T., T.N.P.M. **(102-106)**

**P. 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 Orders
- 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

**Q. Consulting with Legal Counsel**

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

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

**S. Open Session Items Noticed Above Not Completed in the Initial Open Session**

**ADJOURNMENT**

**NEXT MEETING: FEBRUARY 16, 2021**

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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. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

**VIRTUAL/TELECONFERENCE  
FUNERAL DIRECTORS EXAMINING BOARD  
MEETING MINUTES  
AUGUST 25, 2020**

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

**EXCUSED:** Eric Lenggell

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

**CALL TO ORDER**

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

**ADOPTION OF AGENDA**

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

**APPROVAL OF MINUTES OF MAY 19, 2020**

**MOTION:** Marla Michaelis moved, seconded by Marc Eernisse, to approve the Minutes of May 19, 2020 as published. Motion carried unanimously.

**ADMINISTRATIVE RULE MATTERS**

**Discussion of Clearinghouse Comments and Public Hearing Comments for CR # 20-026 and EmR2019, Relating to Certification Courses for Funeral Director Apprentices**

**MOTION:** Joseph Schinkten moved, seconded by A. Dawn Adams, to accept all Clearinghouse comments for Clearinghouse Rule CR 20-026, relating to certification courses for funeral director apprentices. Motion carried unanimously.

**MOTION:** Joseph Schinkten moved, seconded by A. Dawn Adams, to authorize the Chairperson to approve the Legislative Report and Draft for Clearinghouse Rule CR 20-026, relating to certification courses for funeral director apprentices, for submission to the Governor's Office and Legislature. Motion carried unanimously.

**Preliminary Rule Draft for FD 1 and 4, Relating to Education Requirements for Licensure and Continuing Education Requirements – Emergency and Permanent Rules**

**MOTION:** Joseph Schinkten moved, seconded by Marla Michaelis, to authorize the Chair to approve the emergency rule for FD 1 and 4, relating to education requirements for licensure and continuing education requirements, for emergency rule submission to the governor, publication in an official newspaper, and for the permanent rule posting of economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

**Adoption Order CR # 19-161, Relating to Burial Agreements Funded with Life Insurance**

**MOTION:** Marc Eernisse moved, seconded by Joseph Schinkten, to approve the Adoption Order for Clearinghouse Rule CR 19-161, relating to burial agreements funded with life insurance. Motion carried unanimously.

**Adoption Order CR # 19-162, Relating to Continuing Education Requirements for Funeral Directors**

**MOTION:** Marla Michaelis moved, seconded by A. Dawn Adams, to approve the Adoption Order for Clearinghouse Rule CR 19-162, relating to continuing education for funeral directors. Motion carried unanimously.

**Adoption Order CR # 19-163, Relating to Licensure and Standards of Practice for Funeral Directors and Funeral Director Apprentices**

**MOTION:** Joseph Schinkten moved, seconded by Marc Eernisse, to approve the Adoption Order for Clearinghouse Rule CR 19-163, relating to licensure and standards of practice for funeral directors and funeral director apprentices. Motion carried unanimously.

**Preliminary Rule Draft for FD 1, Relating to Application Requirements for Licensure**

**MOTION:** Joseph Schinkten moved, seconded by Marla Michaelis, to approve the preliminary rule draft of FD 1, relating to application requirements, for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

**CLOSED SESSION**

**MOTION:** Marla Michaelis moved seconded by A. Dawn Adams, 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. The vote of each member was ascertained by voice vote. Roll Call Vote: A. Dawn Adams-yes; Marc Eernisse-yes;

Marla Michaelis-yes; and Joseph Schinkten-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:51 a.m.

### **DELIBERATION ON DLSC MATTERS**

#### **Proposed Stipulations, Final Decisions, and Orders**

##### ***18 FDR 010 – Jeffry B. Fredrickson, Jandt-Fredrickson Funeral Homes and Crematory, Jordan M. Wegner, and Jake C. Zimmer***

**MOTION:** Marla Michaelis moved, seconded by A. Dawn Adams, to adopt the Findings of Fact, Conclusions of Law and Orders in the matter of disciplinary proceedings against Jeffry B. Fredrickson, Jandt-Fredrickson Funeral Homes and Crematory, Jordan M. Wegner, and Jake C. Zimmer, DLSC Case Number 18 FDR 010. Motion carried unanimously.

#### **RECONVENE TO OPEN SESSION**

**MOTION:** Joseph Schinkten moved, seconded by Marla Michaelis, to reconvene into open session. Motion carried unanimously.

The Board reconvened into Open Session at 12:02 p.m.

#### **VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION**

**MOTION:** Marla Michaelis moved, seconded by Marc Eernisse, 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:** A. Dawn Adams moved, seconded by Joseph Schinkten, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:09 p.m.

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Kevyn Radcliffe Administrative Rules Coordinator		<b>2) Date when request submitted:</b> November 5, 2020 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
<b>3) Name of Board, Committee, Council, Sections:</b> Funeral Directors Examining Board			
<b>4) Meeting Date:</b> November 17, 2020	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> 1. Public Hearing on Clearinghouse Rule for FD 1 relating to application materials. -Review and consider Clearinghouse report and public comments. 2. Public Hearing on Clearinghouse Rule for FD 1 and 4 relating to education and continuing education for licensure -Review and consider Clearinghouse report and public comments.	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b> Both public hearings are noticed for 9:30 am.			
<b>11) Authorization</b>			
Signature of person making this request <i>Kevyn Radcliffe</i>		Date November 5, 2020	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
<b>Directions for including supporting documents:</b> 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.			



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 TBD)

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PROPOSED ORDER

An order of the Funeral Directors Examining Board to amend FD 1.06 (6) and 1.12 (title); and to create FD 1.015 and 1.13; relating to funeral director license application requirements.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** Sections 111.321, 111.322, 111.335, and 440.09 (2), Stats.

**Statutory authority:** Sections 15.08 (5) (b), 227.11 (2) (a), 440.09 (2), 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 440.09 (2), Stats., “[t]he department and each credentialing board shall grant a reciprocal credential to an individual who the department or credentialing board determines meets all of the following requirements:

- (a) The individual applies for a reciprocal credential under this section on a form prescribed by the department or credentialing board.
- (b) The individual is a service member, a former service member, or the spouse of a service member or former service member and resides in this state.
- (c) The individual holds a license, certification, registration, or permit that was granted by a governmental authority in a jurisdiction outside this state that qualifies the individual to perform the acts authorized under the appropriate credential granted by the department or credentialing board.

(d) The individual pays the fee specified under s. 440.05 (2).

(f) The individual is in good standing with the governmental authorities in every jurisdiction outside this state that have granted the individual a license, certification, registration, or permit that qualifies the individual to perform acts authorized under the appropriate credential granted by the department or credentialing board.

Section 440.09 (5), Stats., allows the board to promulgate rules necessary to implement the changes to 440.09 (2) enacted by 2019 Wisconsin Act 143.

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:** Sections 445.04 and 445.045, Stats. provide the statutorily required criteria for a funeral director license application.

**Plain language analysis:**

This rule project updates FD 1 to implement 2019 Wisconsin Act 143. Act 143 requires the board to grant a reciprocal credential to an applicant who meets the following criteria:

- Completes an application.
- Pays the required application fee.
- Resides in the state.
- Is either a service member, former service member discharged other than dishonorably within the last four years, or spouse of a service member or former service member discharged other than dishonorably within the last four years.
- Holds a credential in another jurisdiction that qualifies the individual to perform the acts authorized under the appropriate credential granted by the department or credentialing board.

The rule project also revises FD 1 to implement 2017 Wisconsin Act 278. FD 1.02 (6) is revised to clarify that an applicant must submit documentation necessary for the board determine whether the applicant has certain pending charges (not simply an arrest record) or convictions that are substantially related to the practice of the profession of funeral directing.

**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:**

Illinois state law does have a process allowing for expedited issuance of reciprocal credentials for active service members, their spouses, and those who were discharged from the service within the last two years. An applicant must show that they have a credential in good standing in another jurisdiction that is substantially equivalent to the Illinois credential sought, and must submit all required fees and application documents. The credential must be issued within 60 days of receipt of a completed application (20 ILCS 5/5-715).

Illinois allows its credentialing authority to deny or refuse to renew a funeral director license if the applicant is convicted or pleads guilty or no contest to a felony directly related to the practice of funeral directing. Felonies directly related to the practice of funeral directing include but are not limited to most violent crimes, sex crimes, and crimes relating fraud; as well as attempting to commit any of these felonies. Mitigating factors including the applicant's age when the crime was committed, time elapsed since the conviction, and consideration of the actual bearing of the crime on the ability of the applicant to practice. Discrimination based on arrest or on a pending charge does not appear to be permissible (225 ILCS 41/15-72).

**Iowa:**

Iowa requires the board to expedite reciprocal license applications for veterans as defined under Iowa law, as long as the board determines the individual is licensed in another jurisdiction and the requirements to obtain that license are substantially equivalent to the requirements to obtain the license in Iowa. If the requirements are not substantially equivalent, the applicant may receive a provisional license to allow practice while meeting remaining requirements for equivalency (IA Stats. § 272C.4 (12)).

Iowa law allows for the revocation or suspension of a funeral director license if the following is true: "Conviction of any crime related to the practice of mortuary science or implicating the licensee's competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this paragraph, "conviction" includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction" (IA Stats. § 156.9 (e)).

**Michigan:**

Michigan provides for a temporary credential to be issued to active duty military and spouses if they hold a credential in another state in good standing that allows for the practice of the profession they are seeking licensure for. This temporary credential is good for at least 6 months and can be extended if the person needs more time to meet licensing requirements (MI Stats. § 339.213).

Individuals licensed as funeral directors in Michigan must be “of good moral character.” (MCL § 339.1806 (1) (d)). The agency may consider a judgment of guilt in a criminal prosecution or a judgment in a civil action in determining whether an individual is of good moral character. The individual can provide evidence showing that they are of good moral character to rebut a previous criminal or civil judgment (MCL § 338.42).

**Minnesota:**

Minnesota allows licensing agencies to refuse to credential an individual based on criminal history only if the individual was convicted of the crime, and the crime directly relates to the occupation for which the license is sought (Minn. Stats. § 364.03 (1)).

Generally, Minnesota does require each licensing board to promulgate rules allowing for expedited temporary credentials to be issued to service members, former service members discharged in the last two years, and their spouses. Applicants must show a valid credential issued by another jurisdiction, without history of disciplinary action, and must pass a background check. The applicant must complete all application requirements during the life of the temporary credential (Minn. Stats. § 197.4552).

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

The board considered the necessity of implementing the statutory changes created by 2017 Act 278 and 2019 Act 143 in drafting this rule, and made the revisions to its rules necessary to implement these legislative changes.

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

The rule will be posted on the department’s website for 14 days to solicit information from the public on the possible economic impact of the proposed rule.

**Fiscal Estimate and Economic Impact Analysis:**

The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

**Effect on small business:**

The board is currently soliciting economic impact information from the public and will update this section upon the conclusion of the 14 day solicitation period.

**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](mailto: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](mailto:DSPSAdminRules@wisconsin.gov). Comments must be received on or before the public hearing to be held at 9:30 AM on November 17, 2020 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. FD 1.015 is created to read:

**FD 1.015 Definitions; this chapter.** As used in this chapter:

- (1) “Former service member” has the meaning provided in s. 440.09 (1) (a), Stats.
- (2) “Service member” has the meaning provided in s. 440.09 (1) (b), Stats.
- (3) “Spouse” has the meaning provided in s. 440.09 (1) (c), Stats.

SECTION 2. FD 1.06 (6) is amended to read:

**FD 1.06 (6)** If the applicant has ~~an arrest~~ a pending charge or conviction record, all 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.

SECTION 3. FD 1.12 (title) is amended to read:

**FD 1.12 General Reciprocity.**

SECTION 4. FD 1.13 is created to read:

**FD 1.13 Reciprocity for Servicemembers, Former Servicemembers, and Spouses of Servicemembers or Former Servicemembers.** A funeral director’s license shall be granted to a servicemember, former servicemember, or spouse of a servicemember or former servicemember who the board determines meets all of the requirements under s. 440.09 (2), Stats. Subject to s. 440.09 (2m), Stats., the board may request verification necessary to make a determination under this section.

SECTION 5. 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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## 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 September 11, 2020</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) FD 1</p>	
<p>4. Subject Funeral Director License Application Requirements</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input checked="" type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected 20.165(1)(g)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input checked="" type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input checked="" 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 <b>(if checked, complete Attachment A)</b></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 The rule project is necessary to implement 2019 Wisconsin Act 143 regarding a process for service members, former service members, and their spouses to obtain a reciprocal credential. The rule is also necessary to revise the board's rules to bring them into alignment with 2017 Wisconsin Act 278. The rules are clarified to state that an applicant is required to submit a record of pending charges against the applicant, not their arrest record generally.</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's website for 14 days to solicit economic impact comments from these groups. 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 that the board's rules will conform with state law and provide clarity to stakeholders. It will also assist our veterans, active duty service members, and their spouses in obtaining credentials that they need to work in Wisconsin. The alternative is to not implement the rule and leave a disparity between state statute and the board's rules, resulting in stakeholder confusion.</p>	
<p>16. Long Range Implications of Implementing the Rule The long range implication of implementing the rule is that stakeholders will have greater clarity as to what the application requirements are for obtaining a reciprocal credential, and applying for a funeral director's license generally.</p>	
<p>17. Compare With Approaches Being Used by Federal Government</p>	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

None.

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

Illinois:

Illinois state law does have a process allowing for expedited issuance of reciprocal credentials for active service members, their spouses, and those who were discharged from the service within the last two years. An applicant must show that they have a credential in good standing in another jurisdiction that is substantially equivalent to the Illinois credential sought, and must submit all required fees and application documents. The credential must be issued within 60 days of receipt of a completed application (20 ILCS 5/5-715).

Illinois allows its credentialing authority to deny or refuse to renew a funeral director license if the applicant is convicted or pleads guilty or no contest to a felony directly related to the practice of funeral directing. Felonies directly related to the practice of funeral directing include but are not limited to most violent crimes, sex crimes, and crimes relating fraud; as well as attempting to commit any of these felonies. Mitigating factors including the applicant's age when the crime was committed, time elapsed since the conviction, and consideration of the actual bearing of the crime on the ability of the applicant to practice. Discrimination based on arrest or on a pending charge does not appear to be permissible (225 ILCS 41/15-72).

Iowa:

Iowa requires the board to expedite reciprocal license applications for veterans as defined under Iowa law, as long as the board determines the individual is licensed in another jurisdiction and the requirements to obtain that license are substantially equivalent to the requirements to obtain the license in Iowa. If the requirements are not substantially equivalent, the applicant may receive a provisional license to allow practice while meeting remaining requirements for equivalency (IA Stats. § 272C.4 (12)).

Iowa law allows for the revocation or suspension of a funeral director license if the following is true: "Conviction of any crime related to the practice of mortuary science or implicating the licensee's competence to safely perform mortuary science services, including but not limited to a crime involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. For purposes of this paragraph, "conviction" includes a guilty plea, deferred judgment, or other finding of guilt. A certified copy of the judgment is prima facie evidence of the conviction" (IA Stats. § 156.9 (e)).

Michigan:

Michigan provides for a temporary credential to be issued to active duty military and spouses if they hold a credential in another state in good standing that allows for the practice of the profession they are seeking licensure for. This temporary credential is good for at least 6 months and can be extended if the person needs more time to meet licensing requirements (MI Stats. § 339.213).

Individuals licensed as funeral directors in Michigan must be "of good moral character." (MCL § 339.1806 (1) (d)). The agency may consider a judgment of guilt in a criminal prosecution or a judgment in a civil action in determining whether an individual is of good moral character. The individual can provide evidence showing that they are of good moral character to rebut a previous criminal or civil judgment (MCL § 338.42).

Minnesota:

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

Minnesota allows licensing agencies to refuse to credential an individual based on criminal history only if the individual was convicted of the crime, and the crime directly relates to the occupation for which the license is sought (Minn. Stats. § 364.03 (1)).

Generally, Minnesota does require each licensing board to promulgate rules allowing for expedited temporary credentials to be issued to service members, former service members discharged in the last two years, and their spouses. Applicants must show a valid credential issued by another jurisdiction, without history of disciplinary action, and must pass a background check. The applicant must complete all application requirements during the life of the temporary credential (Minn. Stats. § 197.4552).

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19. Contact Name Jon Derenne, Administrative Rules Coordinator	20. Contact Phone Number (608) 266-0955
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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

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)  
 Yes    No

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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 1.04 (2); to amend FD 1.02 (3) and (4), 1.04 (title), (intro.), and (1), 1.05 and 1.055; to repeal and recreate FD 4.03 (1); and to create FD 4.03 (1m), relating to licensure and continuing education requirements for funeral directors and funeral director apprentices.

Analysis prepared by the Department of Safety and Professional Services.

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ANALYSIS

**Statutes interpreted:** Sections 445.045 (1), 445.07, and 445.095 (1), Stats.

**Statutory authority:** Sections 15.08 (5) (b), 227.11 (2) (a), 445.03 (2) (a), and 445.07 (3), Stats.

**Explanation of agency authority:**

Section 15.08 (5) (b), Stats. provides “[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. provides “[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) (a), Stats. authorizes the board to “[m]ake and enforce rules...for the examination and licensing of funeral directors and the registration of apprentices.”

Section 445.07 (3), Stats. authorizes the board to make rules implementing the continuing education requirements in s. 445.07, Stats.

**Related statute or rule:** None.

**Plain language analysis:**

This rule project makes several updates to chs. FD 1 and FD 4 in light of 2019 Wisconsin Act 137. FD 1 regarding funeral director and apprentice credentialing are revised to reflect that 24 semester credits of college are now required for licensure instead of 2 academic years. No changes are made to the required course subject matter. The requirement for certification as an apprentice that the 16-hour certification course be taken regardless of whether the applicant has completed mortuary school, is also removed. The certification class will no longer be required for apprenticeship applicants who have already completed mortuary school.

Finally, the continuing education requirements in FD 4 are revised to reflect that in the first biennium following licensure as a funeral director, the licensee will be required to complete 4 hours of continuing education that the board has deemed necessary to prepare a new licensee for practice.

**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:** Illinois provides for a funeral director's license and a funeral director and embalming license. The funeral director only license requires 12 continuing education credits per renewal period, and the funeral director and embalming license requires 24 credits. Licensees are not required to meet the continuing education requirement during the renewal period immediately following their initial licensure (Ill. Admin. Code § 1250.220 (a)).

Illinois requires funeral director applicants to complete an internship. There is not a certification course required prior to beginning the internship. At minimum, however, must have completed at least 30 semester or 45 quarter college credit hours along with the completion of a 12 month mortuary science program (Ill. Admin Code § 1250.120 (a)).

**Iowa:** Iowa code requires a funeral director licensee to complete at least 24 continuing education credits per renewal period. Licensees are not required to complete continuing education during the first renewal period immediately following their licensure (645 IA Admin. Code § 102.2 (1)).

Iowa requires funeral director applicants to complete a one-year internship (645 IA Admin. Code § 101.3 (1)). The internship must be completed after the education and examination requirements for funeral director licensure are met. This includes a minimum of 60 credits from an accredited college or university, not including any credits for technical mortuary science instruction, completion of a mortuary science program,

and at least a one credit course in Iowa law and administrative rules relevant to the practice of funeral directing (645 IA Admin. Code § 101.2 (1)).

**Michigan:** Michigan requires funeral director license candidates to complete a one-year resident trainee program under the supervision of a licensee, graduate from a 3-year mortuary science course at an accredited school, college, or university, pass an examination, and be a person of good moral character (MCL § 339.1806 (1)). A resident trainee license can be issued to an individual who has a high school diploma and is of good moral character (MCL § 339.1808 (1)). It does not appear that any particular order is required in completing the requirements for licensure as a funeral director, nor does Michigan appear to require continuing education for licensees.

**Minnesota:** Minnesota requires applicants for a funeral director license to first complete the education requirement for licensure, which is at a minimum an aggregation of college credits substantially equivalent to a bachelor's degree plus a course of study in mortuary science. Once the education requirement is complete the applicant must pass the required examination. Finally, a 2,080 hour internship is required to be completed within 3 years. It does not appear that continuing education is required to renew a funeral director license.

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

The board must revise its rules to match the statutory requirements enacted by 2019 Wisconsin Act 137. Failure to do so would result in the rules remaining inconsistent with state statute and result in confusion to stakeholders as to what the law is.

**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:**

The rules will be posted for 14 days on the department website to solicit economic impact comments.

**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 November 17, 2020 to be included in the record of rule-making proceedings.

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TEXT OF RULE

SECTION 1. FD 1.02 (3) and (4) are amended to read:

**FD 1.02 (3)** Evidence of completion of ~~2 academic years~~ at least 24 semester credits 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.~~

SECTION 2. FD 1.04 (title), (intro.) and (1) are amended to read:

**FD 1.04 ~~Two academic years of~~ College instruction.** To meet the ~~requirements~~ requirement of 24 ~~academic years~~ semester credits 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~~ at least 24 semester credit hours in the following areas:

**(1) English/Communication Skills.**

SECTION 3. FD 1.04 (2) is repealed.

SECTION 4. FD 1.05 and 1.055, as affected by CR 19-163, are amended to read:

**FD 1.05** ~~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, either before or after completing the 1 year apprenticeship required under s. 445.095, Stats., 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** ~~In addition to s. FD 1.05~~ Prior to beginning the 1 year apprenticeship required under s. 445.095, Stats., the applicant must provide evidence of completion of an in-person 16-hour certification class approved by the board, unless the applicant has already completed the mortuary school requirement in s. FD 1.05, in which case the certification course is not required.

SECTION 5. FD 4.03 (1) is repealed and recreated to read:

**FD 4.03 (1)** For the renewal of a license that expires on the first renewal date after the date on which the examining board initially granted the license, completion of 4 credit hours of continuing education subsequent to the date the applicant was granted the initial license is required. The required 4 credit hours of continuing education may include instruction in any of the following topics that the board has determined may prepare a new licensee for practice as a funeral director:

- (a) Embalming.
- (b) Life insurance.
- (c) Hospitality.
- (d) Celebrant training.
- (e) Crematory operation.
- (f) Public speaking.
- (g) Small business management.
- (h) Marketing, including the use of graphic design and social media.
- (i) Other topics deemed appropriate by the board.

SECTION 6. FD 4.03 (1m) is created to read:

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

SECTION 7. 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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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<b>1. Type of Estimate and Analysis</b> <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	<b>2. Date</b> September 14, 2020
<b>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)</b> FD 1 and 4	
<b>4. Subject</b> Licensure and continuing education requirements for funeral directors and funeral director apprentices	
<b>5. Fund Sources Affected</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	<b>6. Chapter 20, Stats. Appropriations Affected</b> 20.165(1)(g)
<b>7. Fiscal Effect of Implementing the Rule</b> <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget	
<b>8. The Rule Will Impact the Following (Check All That Apply)</b> <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 <b>(if checked, complete Attachment A)</b>	
<b>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).</b> \$0	
<b>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)?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>11. Policy Problem Addressed by the Rule</b> This rule project makes several updates to chs. FD 1 and FD 4 in light of 2019 Wisconsin Act 137. FD 1 regarding funeral director and apprentice credentialing are revised to reflect that 24 semester credits of college are now required for licensure instead of 2 academic years. No changes are made to the required course subject matter. The requirement for certification as an apprentice that the 16-hour certification course be taken regardless of whether the applicant has completed mortuary school, is also removed. The certification class will no longer be required for apprenticeship applicants who have already completed mortuary school.  Finally, the continuing education requirements in FD 4 are revised to reflect that in the first biennium following licensure as a funeral director, the licensee will be required to complete 4 hours of continuing education that the board has deemed necessary to prepare a new licensee for practice.	
<b>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.</b> None.	
<b>13. Identify the Local Governmental Units that Participated in the Development of this EIA.</b> None.	
<b>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)</b> None.	
<b>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</b> The benefit of implementing the rule is to update the FD chapters to bring them into line with the recent statutory changes enacted by 2019 Wisconsin Act 137. The alternative to implementing the rule would be to not promulgate new continuing education requirements for newly licensed funeral directors, and to leave the rules otherwise inconsistent with	

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

state statutes. This would result in a lack of clarity for stakeholders as to what is required to obtain and maintain a funeral director license in this state.

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16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule are to ensure that the FD rules chapters are in alignment with state statute.

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17. Compare With Approaches Being Used by Federal Government

None.

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

Illinois: Illinois provides for a funeral director's license and a funeral director and embalming license. The funeral director only license requires 12 continuing education credits per renewal period, and the funeral director and embalming license requires 24 credits. Licensees are not required to meet the continuing education requirement during the renewal period immediately following their initial licensure (Ill. Admin. Code § 1250.220 (a)).

Illinois requires funeral director applicants to complete an internship. There is not a certification course required prior to beginning the internship. At minimum, however, must have completed at least 30 semester or 45 quarter college credit hours along with the completion of a 12 month mortuary science program (Ill. Admin Code § 1250.120 (a)).

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19. Contact Name

Jon Derenne, Administrative Rules Coordinator

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20. Contact Phone Number

(608) 266-0955

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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
-

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

**AGENDA REQUEST FORM**

<b>1) Name and title of person submitting the request:</b> Kevyn Radcliffe Administrative Rules Coordinator		<b>2) Date when request submitted:</b> November 5, 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>	
<b>3) Name of Board, Committee, Council, Sections:</b> Funeral Directors Examining Board			
<b>4) Meeting Date:</b> November 17, 2020	<b>5) Attachments:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>6) How should the item be titled on the agenda page?</b> Administrative Rule Matters – Discussion and Consideration 1. Status updates on pending rules: <ul style="list-style-type: none"> <li>• EmR 2019 – FD 1 certification courses for FD apprentices</li> <li>• FD 1 perm – certification courses for FD apprentices</li> <li>• FD 1 and 2, FD 4, and FD 6 all in effect</li> </ul> 2. Review Clearinghouse Report FD 1 – application materials 3. Review Clearinghouse Report FD 1 and 4 – education and continuing education required for licensure 4. Administrative Rules Reporting Requirements under s. 227.29, Stats. 5. Pending and Possible Rulemaking Projects	
<b>7) Place Item in:</b> <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	<b>8) Is an appearance before the Board being scheduled?</b> <i>(If yes, please complete <a href="#">Appearance Request</a> for Non-DSPS Staff)</i>  <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>9) Name of Case Advisor(s), if required:</b>	
<b>10) Describe the issue and action that should be addressed:</b>  			
<b>11) Authorization</b>			
Signature of person making this request <i>Kevyn Radcliffe</i>		Date November 5, 2020	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)    Date			
<b>Directions for including supporting documents:</b> 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.			



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Scott Grosz**  
*Clearinghouse Director*

**Anne Sappenfield**  
*Legislative Council Director*

**Margit Kelley**  
*Clearinghouse Assistant Director*

### CLEARINGHOUSE RULE 20-044

#### 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.]**

#### **1. Statutory Authority**

In the rule summary’s listing of statutes that provide statutory authority, the board should revise the citation of s. 440.09 (2), Stats., to s. 440.09 (5), Stats.

#### **2. Form, Style and Placement in Administrative Code**

In SECTION 2 of the proposed rule, the board’s amendment should be to s. FD 1.02 (6), not s. FD 1.06 (6). The board should also revise the listing for this citation in the rule caption.

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

a. In SECTION 2 of the proposed rule, the agency could consider specifying that the pending charge must be a criminal charge. While a reader may infer that “charge” refers to “criminal charge,” such a change would match the language found in 2017 Wisconsin Act 278 and elsewhere in the administrative code, such as s. SPS 85.230 (1) (d).

b. The board should consider including the definitions created in SECTION 1 of the proposed rule with either s. FD 1.013 or with s. FD 1.13 created in SECTION 4 of the proposed rule. Generally, if a definition only applies to a particular section, the definition should only appear in that section, not elsewhere in the chapter. Similarly, even if the board anticipates creating new sections that use the terms defined in SECTION 1, a reader may be confused by the inclusion of two separate alphabetically sorted lists in ch. FD 1. [s. 1.01 (7) (a), Manual.]



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Scott Grosz**  
*Clearinghouse Director*

**Anne Sappenfield**  
*Legislative Council Director*

**Margit S. Kelley**  
*Clearinghouse Assistant Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **20-044**

AN ORDER to amend FD 1.06 (6) and 1.12 (title); and to create FD 1.015 and 1.13, relating to funeral director license application requirements.

Submitted by **FUNERAL DIRECTORS EXAMINING BOARD**

10-01-2020 RECEIVED BY LEGISLATIVE COUNCIL.

10-13-2020 REPORT SENT TO AGENCY.

MSK:TK

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES  NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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*Clearinghouse Director*

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#### CLEARINGHOUSE RULE **20-044**

AN ORDER to amend FD 1.06 (6) and 1.12 (title); and to create FD 1.015 and 1.13, relating to funeral director license application requirements.

Submitted by **FUNERAL DIRECTORS EXAMINING BOARD**

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10-13-2020 REPORT SENT TO AGENCY.

MSK:TK

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This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES  NO



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Scott Grosz**  
*Clearinghouse Director*

**Anne Sappenfield**  
*Legislative Council Director*

**Margit Kelley**  
*Clearinghouse Assistant Director*

### CLEARINGHOUSE RULE 20-045

#### 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.]**

#### 1. Statutory Authority

Section FD 4.03 (1) (i) appears to allow the agency to authorize new subjects of continuing education without amending the rule provision. The agency should explain its authority to recognize additional subjects of continuing education in the absence of future rulemaking, as s. 445.07 (1) (a), Stats., directs the agency to promulgate these permitted or required subjects of continuing education by rule.

#### 2. Form, Style and Placement in Administrative Code

a. In s. FD 1.04 (1) (title), the agency should avoid the use of a slashed alternative; instead, it could amend the title as “English or Communication Skills”.

b. In the treatment clause of SECTION 4, it is unnecessary to refer to Clearinghouse Rule 19-163, as that Clearinghouse Rule took effect on October 1, 2020.

c. In SECTION 6, the cross-reference should be to “sub. (1) and s. FD 4.05” rather than “ss. FD 4.03 (1) and 4.05”.

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

a. In ss. FD 1.02 (4), 1.05 and 1.055, the agency appears to use the phrases “course in mortuary science”, “curriculum in funeral service education”, and “mortuary school” interchangeably. If so, the agency may wish to consistently use a single term.



b. In FD 1.055, the agency could consider revising the rule to read: “Prior to beginning the 1 year apprenticeship required under s. 445.095, Stats., the applicant ~~must~~ **shall** provide evidence...”. “Shall” and “must” both indicate a mandatory action, but “shall” is the word preferred in the administrative code. [s. 1.01 (2), Manual.]



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### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **20-045**

AN ORDER to repeal FD 1.04 (2); to amend FD 1.02 (3) and (4), 1.04 (title), (intro.), and (1), 1.05 and 1.055; to repeal and recreate FD 4.03 (1); and to create FD 4.03 (1m), relating to licensure and continuing education requirements for funeral directors and funeral director apprentices.

Submitted by **FUNERAL DIRECTORS EXAMINING BOARD**

10-02-2020 RECEIVED BY LEGISLATIVE COUNCIL.

10-22-2020 REPORT SENT TO AGENCY.

SG:EH

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached            YES             NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached            YES             NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached            YES             NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached            YES             NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached            YES             NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached            YES             NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached            YES             NO

**2017 Wisconsin Act 108 created the following reporting requirement:**

**227.29 Agency review of rules and enactments. (1)** By March 31 of each odd-numbered year, each agency with any rules published in the code shall submit a report to the joint committee for review of administrative rules listing all of the following rules promulgated or otherwise administered by that agency:

(a) Unauthorized rules, as defined in s. 227.26 (4) (a), together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.

(b) Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.

(c) Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.

(d) Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling.

(e) Rules that the agency determines are economically burdensome.

**(2)** The report under sub. (1) shall also include all of the following:

(a) A description of the agency's actions, if any, to address each rule listed in the report. If the agency has not taken any action to address a rule listed in the report, the agency shall include an explanation for not taking action.

(b) A description of the status of each rule listed in the previous year's report not otherwise listed.

(c) If the agency determines that there is no rule as described under sub. (1) (a), (b), (c), (d), or (e), a statement of that determination.

**(3)** If an agency identifies an unauthorized rule under sub. (1) (a) and is not otherwise in the process of promulgating a rule that repeals the unauthorized rule, the agency shall, within 30 days after the agency submits the report, submit a petition to the legislative council staff under s. 227.26 (4) (b) 1. to repeal the unauthorized rule if the agency has not previously done so.

**Marc A. Eernisse**  
Chairperson

**Marla Michaelis**  
Vice Chairperson

**Aziz Al-Sager**  
Secretary

**FUNERAL DIRECTORS  
EXAMINING BOARD**



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March 21, 2019

Senator Stephen Nass, Senate Co-Chairperson  
Joint Committee for Review of Administrative Rules  
Room 10 South, State Capitol  
Madison, WI 53702

Representative Joan Ballweg, Assembly Co-Chairperson  
Joint Committee for Review of Administrative Rules  
Room 210 North, State Capitol  
Madison, WI 53702

RE: Report Submitted in Compliance with s. 227.29 (1), Stats.

Dear Senator Nass and Representative Ballweg:

This report has been prepared and submitted in compliance with s. 227.29 (1), Stats.

**I. Unauthorized rules, as defined in s. 227.26 (4) (a), Stats.:**

After careful review of the agency's administrative rules, the agency has determined that no promulgated rules are unauthorized rules, as defined in s. 227.26 (4) (a), Stats.

**II. Rules for which the authority to promulgate has been restricted:**

Rule	Description of the legislation that restricted the authority	Action taken to address or reason for not taking an action
ss. FD 1.02 (4) and 1.05	2017 Act 304 amended the academic requirements for funeral director apprenticeship applicants.	EMR1823 went into effect on November 1, 2018. The permanent rule draft is pending with the legislature, CR 18-075.

**III. Rules that are obsolete or that have been rendered unnecessary:**

Rule	Description of why the rule is obsolete or has been rendered unnecessary	Action taken to address or reason for not taking an action
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s. FD 6.07 (11)	The rule requires that contracts include an address and phone number, but that information is obsolete.	A scope statement to correct this issue was requested on 2/19/2019.
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**IV. Rules that are duplicative or, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction:**

Rule	Citation or the text of the statute, regulation, or ruling	Action taken to address or reason for not taking an action
ss. FD 1.075 and FD 2.03	These rule provisions are in conflict with each other as it relates to work that may be performed by funeral director apprentices under the supervision of a licensed funeral director.	A scope statement to correct this issue was requested on 2/19/2019.
s. FD 4.03 (4)	The provision is duplicative of a requirement included in s. FD 4.03 (4m).	A scope statement to correct this issue was requested on 2/19/2019.

**V. Rules that are economically burdensome:**

After careful review of the agency’s administrative rules, the agency has determined that no promulgated rules are economically burdensome.

Thank you.

Sincerely,

Marc A. Eernisse  
Chairperson  
Funeral Directors Examining Board