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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

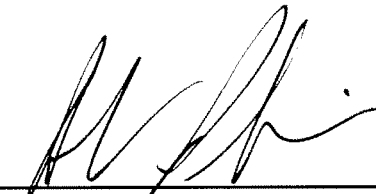
Clearinghouse Rule 07-049

Relating to continuing education requirements.

Submitted by Department of Regulation and Licensing.

October 10, 2007 Referred to Committee on Labor, Elections and Urban Affairs.

November 10, 2007 No action taken.



Adam Plotkin
Committee Clerk





Packet

LCRC
FORM 2

**WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE**

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy 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 07-049

AN ORDER to amend FD 4.04 (1) (intro.); and to create FD 4.04 (8), relating to continuing education requirements.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

05-17-2007 RECEIVED BY LEGISLATIVE COUNCIL.

06-14-2007 REPORT SENT TO AGENCY.

RS:DD

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



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-049

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

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

a. The reference to s. 455.03, Stats., in the “explanation of agency authority” under the department’s analysis should be to s. 445.03, Stats.

b. In s. FD 4.04 (8), consideration should be given to referencing “sub. (1) (a) to (d)” in place of reference to “sub. (1).” In addition, consideration should be given to whether additional provisions in s. FD 4.04 should be cross-referenced; see subs. (5) to (7).

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

The rule is unclear. The rule states that a continuing education course, sponsored by specified entities, that satisfies specified criteria “shall be approved” by the examining board without receipt of the course approval application from the program provider otherwise required. The use of “shall be approved” can be read to mean that there will still be some preapproval by the board on a case-by-case basis. Is that the intent? In this regard, see references to receiving preapproval, obtaining approval, and receiving board approval in the department’s discussion under “analysis and supporting documents used to determined effect on small business or in preparation of economic impact report” in the department’s analysis. If preapproval is required, what is the procedure to be followed?

Note, also, that the department’s “plain language analysis” refers to funeral directors no longer being required to go through the course approval process under the rule. However, the provider is subject to the course approval process, not the individual funeral director.

It appears the rule as presented may not adequately convey what is intended.

Jim Doyle
Governor

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

1400 E Washington Ave
PO Box 8935
Madison WI 53708-8935
Email: web@drl.state.wi.us
Voice: 608-266-2112
FAX: 608-267-0644
TTY: 608-267-2416

Celia M. Jackson
Secretary



October 8, 2007

LETTER OF TRANSMITTAL

TO: Senate Chief Clerk
Attention: Robert Marchant
Room B20 Southeast, State Capitol
Madison, Wisconsin 53702

FROM: Pamela A. Haack, Paralegal
Department of Regulation and Licensing
Office of Legal Counsel
1400 East Washington Avenue, Room 152
Madison, Wisconsin 53702

The attached rule jacket containing a report to the legislative standing committee is being submitted for delivery to the Speaker of the Assembly pursuant to section 227.19 (4) (b) 4., Stats.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact me at 266-0495.

Thank you.

Handwritten signature of Jeffrey Kunk in cursive script, positioned above a horizontal dashed line.

07-049

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING
FUNERAL DIRECTORS EXAMINING : BOARD ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 07-049)**

TO: Senator Fred Risser
President of the Senate
Room 220 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the FUNERAL DIRECTORS EXAMINING BOARD is submitting in final draft form rules relating to continuing education requirements.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

Thank you.

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
FUNERAL DIRECTORS : **ON CLEARINGHOUSE RULE 07-049**
EXAMINING BOARD : **(s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required.

III. FISCAL ESTIMATES:

The department estimates that the proposed rule will have no significant fiscal impact. The department also finds that this rule has no significant fiscal effect on the private sector.

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

Section 445.06, Wis. Stats., requires licensed funeral directors to obtain 15 hours of continuing education credits every two years in order to be eligible to renew their credential. Under the existing rules, potential continuing education providers must submit their courses to the Funeral Directors Examining Board for approval. This proposal would eliminate the need for prior course approval for certain recognized entities provided they meet the criteria that all other providers must meet. These modifications are intended to enable funeral directors to take a wider selection of courses that will satisfy their continuing education requirements.

V. NOTICE OF PUBLIC HEARING AND PUBLIC COMMENTS:

A public hearing was held on August 7, 2007. Scott Peterson, Wisconsin Funeral Directors Association, Madison, Wisconsin, appeared and spoke in support of the proposed rules.

There were no other appearances at the public hearing and no written comments were received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 5. The rule is unclear. The rule states that a continuing education course, sponsored by specified entities, that satisfies specified criteria "shall be approved" by the examining board without receipt of the course approval application from the program provider otherwise required. The use of "shall be approved" can be read to mean that there will still be some preapproval by the board on a case-by-case basis. Is that the intent? In this regard, see references to receiving preapproval, obtaining approval, and receiving board approval in the department's discussion under "analysis and supporting documents used to determine effect on small business or in preparation of economic impact report" in the department's analysis. If preapproval is required, what is the procedure to be followed?

Note, also, that the department's "plain language analysis" refers to funeral directors no longer being required to go through the course approval process under the rule. However, the provider is subject to the course approval process, not the individual funeral director. It appears the rule as presented may not adequately convey what is intended.

Response: The board finds the rule to be rather straightforward in that if you are one of the identified "excepted entities" and the entity meets the criteria as found in s. FD 4.04 (1) (a) to (d), then you do not have to seek preapproval of the board for your continuing education program.

All of the other recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING
FUNERAL DIRECTORS EXAMINING : BOARD ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 07-049)

PROPOSED ORDER

An order of the Funeral Directors Examining Board to amend FD 4.04 (1) (intro.); and to create FD 4.04 (8), relating to continuing education requirements.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 445.06, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 445.03, Stats.

Explanation of agency authority:

The Funeral Directors Examining Board is authorized to promulgate rules relating to continuing education under s. 445.03, Stats.

Related statute or rule:

There are no other statutes or rules other than those listed above.

Plain language analysis:

This proposed rule-making order relates to continuing education requirements for funeral directors. Licensed funeral directors are required to complete 15 hours of continuing education during each 2-year licensure period. The modifications to the existing continuing education rules will enable funeral directors to take a wider selection of courses from certain recognized providers without also having to go through the course approval process.

SECTION 1 adds an exception to the existing continuing education rules for licensed funeral directors which will permit licensees to obtain continuing education credits from certain recognized entities.

SECTION 2 adds another acceptable means for obtaining continuing education. Under this provision, funeral directors may take continuing education courses from one of these recognized providers without having to go through the formal course approval process.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states:

Illinois:

Twelve hours of continuing education are required every two years. Attendance at programs that are sponsored by accredited colleges or universities and several local, state, and national associations and meet certain criteria is acceptable continuing education by rule and does not need preapproval. Sponsors are required to fill out an application that states that they are meeting all required criteria. Rules can be viewed by going to the Illinois Department of Financial & Professional Regulation Division of Professional Regulation at <http://www.idfpr.com/dpr/default.asp>, click on Funeral Director and then Funeral Director Rules.

Michigan:

Continuing education is not required in Michigan. Rules can be viewed by going to the Department of Labor & Economic Growth at <http://www.michigan.gov/cis>, click on Commercial Services & Corporations and then Licensing Services, followed by Funeral Directors, then Administrative Rules.

Minnesota:

Twelve hours of continuing education are required every two years. Rules specifically state that the “commissioner may, upon presentation of an appropriate program of continuing education developed by the Minnesota Funeral Directors Association, require continuing education hours for renewal of a license to practice mortuary science.” Rules can be viewed by going to the Minnesota Department of Public Health Mortuary Science Section at <http://www.health.state.mn.us/divs/hpsc/mortsci/>, click on Regulations.

Iowa:

Twenty-four hours of continuing education are required every two years. Attendance at programs that are sponsored by state or national funeral associations that meets certain criteria is acceptable continuing education by rule and does not need preapproval. Rules can be viewed by going to the Iowa Department of Public Health at

<http://idph.state.ia.us/licensure/default.asp>, click on Mortuary Science Board and then Continuing Education.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for revising the rule is the board's analysis and determination that a rule change is necessary.

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

The proposed rules would allow certain continuing education course providers to receive pre-approval from the board rather than have to submit each course for approval. There are 1313 funeral directors licensed in Wisconsin. Of the 1313 funeral directors, a significant percentage of them probably work in small business. This rule change will have a minimal, if any, effect on small business. The proposed rules would make it easier for certain providers to obtain approval for continuing education. Also, it may make it more likely that a course will receive board approval and a licensee will receive their continuing education credit as some providers will no longer have to affirmatively submit their course for approval.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules will have no significant 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 larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison,

Wisconsin 53708-8935. Telephone: (608) 266-0495. Email:
pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before August 8, 2007 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. FD 4.04 (1) (intro.) is amended to read:

FD 4.04 Approval of continuing education programs. (1) (intro.) ~~To~~ Except as provided in sub. (8), to obtain approval of a continuing education program, the program provider shall submit an application to the board on a form provided by the board which shall include:

SECTION 2. FD 4.04 (8) is created to read:

FD 4.04 (8) A continuing education course sponsored by a national, international or state funeral director's association, or an educational institution accredited by the American Board of Funeral Service Education or otherwise deemed to be equivalent by the board, which satisfies the criteria established in sub. (1) (a) to (d) and s. FD 4.405, shall be approved by the board without receipt of a course approval application from the program provider.

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____

Chairperson
Funeral Directors Examining Board



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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06-14-2007 REPORT SENT TO AGENCY.

RS:DD

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Comment Attached YES NO

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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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CLEARINGHOUSE RULE 07-049

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