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CLEARINGHOUSE RULE 96-046

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 October 1994.]

1. Statutory Authority

As noted in the cover letter to the Director of the Rules Clearinghouse attached to the rule, much of the rule is based, it would appear, on legislation that was being considered by the Legislature at the time that the rule was submitted. Accordingly, there does not appear to be statutory authority, as yet, to allow for the burial of a dependent child and guard or reserve members at a veterans’ cemetery as contemplated in s. VA 14.02. Similarly, s. 45.358 (1) (a) and (b) and (3) (f), Stats., as referred to in s. VA 14.01, do not yet exist. The cover letter mentions that Assembly Bill 706 “will pass this floor period”; however, that Bill did not pass. Senate Bill 632 did pass, but has not yet been signed into law.

2. Form, Style and Placement in Administrative Code

- a. “SECTION 1” should be inserted before the treatment clause.
- b. The phrase “CHAPTER VA 14” should be inserted as part of the title of the chapter.
- c. In both ss. VA 14.01 and 14.02, the title should be in all capital letters and underscored. [See s. 1.05 (2) (b), Manual.]
- d. Because much of the rule depends upon passage of pending legislation, the effective date provision of the rule should reflect the fact that the rule would not go into effect until after the effective date of that legislation.

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

a. A comma should be inserted after “chapter” in s. VA 14.01 (intro.).

b. In s. VA 14.02 (1), the word “shall” should be replaced by the word “may.” [See s. 1.01 (2), Manual.]

c. In s. VA 14.02 (1), it is unclear whether the clause “who resides at the Wisconsin veterans home at the time of death” modifies only “unremarried surviving spouse” or modifies all of the persons mentioned. It is suggested that sub. (1) be divided into paragraphs as follows and that sub. (2) be similarly divided:

VA 14.02 (1) No fee may be assessed for the burial of any of the following persons:

(a) A veteran, guard or reserve member...

(b) A veteran’s spouse....

(c) A veteran’s unremarried surviving spouse....

d. Is there a definition of “crypt liner” as it is used in s. VA 14.02 (3) that could be cross-referenced to identify better what the term means? Perhaps “outer burial container” as it is defined in s. 157.061 (11g), Stats.? In any event, will a crypt liner be provided by the veterans cemetery if the funeral director does not provide one? It would be helpful if this were clarified in the rule.

e. Because s. VA 14.02 (1) provides that no fee may be charged for the burial of certain individuals, it is not entirely clear whether the department would still issue an assessment against a funeral director that does not provide a crypt liner under sub. (3) for the burial of an individual that is generally exempt from the burial fee. The interplay between subs. (1) and (3) should be clarified.