

Report From Agency

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

IN THE MATTER OF RULEMAKING : REPORT TO THE LEGISLATURE
PROCEEDINGS BEFORE THE : CR 16-011
FUNERAL DIRECTORS :
EXAMINING BOARD :
:

I. THE PROPOSED RULE:

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

II. REFERENCE TO APPLICABLE FORMS:

None.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

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

This proposed rule implements 2013 Wisconsin Act 114, which prohibits the Department of Safety and Professional Services or a credentialing board from requiring a person to complete any postsecondary education before the person is eligible to take an examination for a credential. The Act also amended s. 445.045, Stats., specifically removing the statutory requirement that the examination to receive a funeral director license be taken after completion of college and mortuary school instruction.

Wisconsin has a shortage of funeral directors. The goal of 2013 Wisconsin Act 114 was to allow potential funeral directors to become licensed and enter the workforce as quickly as possible after graduation from a mortuary school program. The proposed rule repeals examination application procedures and replaces them with licensing application procedures, allowing an applicant to complete the licensure requirement in any order and take an examination prior to the completion of education requirements.

This rule revision also simplifies and clarifies various provisions related to examinations, renewal and reinstatement of licenses, and continuing education procedures. It will reduce confusion about the examination and renewal and reinstatement process and make it easier for credential-holders to receive credit for certain continuing education courses.

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

The Funeral Directors Examining Board held a public hearing on February 23, 2016. There were no attendees at the public hearing and the Funeral Directors Examining Board received no written comments on this proposed rule.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: Is there a rule provision that applies to reinstatement of a credential holder who has unmet disciplinary requirements, has not surrendered the credential or had it revoked, and who wishes to renew the credential within five years? Section FD 1.10 (3) appears to apply only to credential holders with unmet disciplinary requirements who fail to renew within five years or whose credential has been surrendered or revoked. Should ch. FD 1 contain a provision similar to s. Phar 5.04, as amended by CR 15-081?

Response: A person renewing a license within 5 years is required to meet the requirements for license renewal, rather than requirements for reinstating a license. If a person renewing a license is under a disciplinary order, they must complete the terms of the order to renew the license. Additional sanctions can be placed on the licensee for violating a Board order.

The Funeral Directors Examining Board may place additional requirements on a license that it determines are necessary to protect the public health, safety or welfare on a licensee whose license has not been renewed within 5 years. Section FD 1.10 (3) establishes those requirements for funeral directors with unmet disciplinary requirements who choose to reinstate a license. The Board is not pursuing a prohibition on license renewal for a person who has a suspended or revoked license as the Pharmacy Examining Board did when they adopted s. Phar 5.04.

Comment: Because s. FD 1.10 (3) relates to reinstatement and licensees with unmet disciplinary requirements, is it necessary to use the phrase “if applicable” at the end of s. FD 1.10 (3)(b)? Under what circumstances would evidence of completion of disciplinary requirements be applicable?

Response: The phrase “if applicable” should remain. If a license is surrendered or revoked, the order may not necessarily include disciplinary requirements and evidence of completion of disciplinary requirements would not be necessary in those cases.

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

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

Not applicable.