

Clearinghouse Rule 17-048

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

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

PROPOSED ORDER

An order of the Wisconsin Funeral Directors Examining Board to amend FD 4.03 (6), (7), (8), FD 4.04 (1) (d), FD 4.04 (6); and to create FD 4.02 (5), (6), FD 4.03 (6m), FD 4.03 (11), (12), and FD 4.06, relating to continuing education requirements for funeral directors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 445.03 (2) (a) and 440.075

Statutory authority: Sections 15.08(5) (b) and 445.03 (2) (a)

Explanation of board authority:

Section 15.08 (5) (b), Stats. – Each 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 445.03 (2)(a) allows examining boards to 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 examination and licensing of funeral directors and the registration of apprentices.

Related statute or rule:

Wisconsin funeral director licensing requirements are found in ch. 445, Stats., “Funeral Directors”, and administrative rules promulgated by the Funeral Directors Examining Board found in chs. FD 1 to 6. Chapter 440, Department of Safety and Professional Services, and chs. SPS 1 to 9 outline the Department of Safety and Professional Services’ administrative procedures for issuing licenses.

Plain language analysis:

This rule provides definitions for continuing education and makes changes to the continuing education requirements for funeral directors. This rule also allows for an audit of the continuing education requirements and for any licensee who has come under investigation by the board for alleged misconduct.

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

Licensing requirements for funeral directors are established by state law.

Comparison with rules in adjacent states:

Illinois: An Internet search revealed that in Illinois every funeral director must complete 24 hours of continuing education for each two year licensure period. For the 2015 and 2017 renewals, the 24 hours must include a minimum of 6 hours related to the practice of funeral directing and a minimum of 6 hours related to the practice of embalming. Beginning with the 2019 renewal, the 24 hours must include a minimum of 9 hours related to the practice of funeral directing and a minimum of 9 hours related to the practice of embalming. No more than 6 hours may consist of insurance courses.

Iowa: An Internet search revealed that Iowa requires 24 hours of continuing education per two years of licensure.

Michigan: An Internet search revealed that Michigan has no continuing education requirements.

Minnesota: An Internet search revealed that Minnesota requires 12 hours of continuing education per two years of licensure.

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board reviewed the rule and statutory requirements.

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

Fiscal Estimate and Economic Impact Analysis:

The Department is currently soliciting information and advice from businesses, local government units, and individuals in order to prepare the economic impact analysis.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Kirsten.Reader@Wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, 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 Greg DiMiceli, Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before (TBD) to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. FD 4.02 (5), 4.02 (6) are created to read:

FD 4.02 (5) Definitions. “In-service” means continuing education approved by the board that is provided by a licensed funeral director to staff in their funeral establishment and is available to all funeral directors.

FD 4.02 (6) Definitions. “Professional activity” means an activity recognized by the board which a funeral director engages in that advances the funeral director profession.

SECTION 2. FD 4.03 (6) is amended to read:

~~(6) No more than 2 hours of the 15-hour requirement may be acquired for presentation of any continuing education program by a funeral director.~~ Continuing education hours may be granted for teaching or presenting any continuing education programs or courses under 4.04 (1) (a) 1. to 4. No credit will be granted for any subsequent presentations of the same program or course. A teacher or presenter may receive up to 2 continuing education credit hours for each hour of presentation.

SECTION 3. FD 4.03 (6m) is created to read:

(6m) Continuing education hours may be granted for professional activity.

SECTION 4. FD 4.03 (7), 4.03 (8) are amended to read:

~~(7) No more than 10 hours of the 15-hour requirement may be acquired through participation in non-contact home study~~ board approved online ~~programs that have been approved by the board.~~

(8) Each contact or clock hour or lesson ~~or tape~~ completed in a ~~home-study~~ board approved online program ~~that has been approved by the board~~ is equivalent to 1.0 continuing education credit hour.

SECTION 5. FD 4.03 (11), 4.03 (12) are created to read:

(11) No more than 6 hours of continuing education credit shall be granted for activity under 4.04(1) (a) during each biennial registration period.

(12) The board may count any relevant instruction obtained in connection with military service, as defined in s. 111.32 (12g), toward satisfying up to 15 hours of continuing education credits per biennial registration period.

SECTION 6. FD 4.04 (1) (d) is amended to read:

(d) The program provider of a ~~home-study~~ board approved online continuing education program includes in the program a method satisfactory to the board of determining a participant's successful completion of the ~~home-study~~ approved online program.

SECTION 7. FD 4.04 (6) is amended to read:

(6) A ~~home-study~~ board approved online program or course taken for academic credit shall be eligible for credit if the program or course relates to subject areas specified in sub. (1) and meets all other requirements in this section.

SECTION 8. FD 4.06 is created to read:

FD 4.06 Audit. 1) The board may conduct a random audit of licensees on a biennial basis for compliance with continuing education requirements.

2) The board may conduct an audit on any licensee who has come under investigation by the board for alleged misconduct.

SECTION 9. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
