

Chapter FD 3

RULES OF CONDUCT

FD 3.01 Authority and intent

FD 3.02 Unprofessional conduct

Note: Chapter FDE 3 was renumbered chapter FD 3 under s. 13.93 (2m) (b) 1, Stats., Register, September, 1993, No. 453.

FD 3.01 Authority and intent. This chapter is promulgated under the authority of ss. 15.08 (5) (b), 227.11 and 445.03, Stats., to interpret and contribute to the implementation of s. 445.13 Stats., relating to grounds for discipline of funeral directors, funeral director apprentices and holders of funeral establishment permits.

History: Cr. Register, July, 1988, No. 391, eff. 8-1-88.

FD 3.02 Unprofessional conduct. Any occurrence of the following shall constitute unprofessional conduct by a licensed funeral director, registered apprentice funeral director or owner of a funeral establishment:

(1) Violating or aiding and abetting a violation of any state or federal law substantially related to the practice of funeral directing.

(2) Violating any of the standards of practice set forth in ch. FD 2.

(3) Giving misleading or deceptive information to family or persons involved in the arranging of a funeral of final disposition including, but not limited to, information on: funeral costs, burial agreements, legal requirements or religious propriety.

(4) Performing of any funeral or embalming duty during the planning or conducting of services while under the influence of alcohol or controlled substances. (Controlled substances are listed in ch. 161, Stats.)

(5) Refusing to comply with a duly authorized request for information by the board in a timely manner, or falsifying records of any kind which are made public or requested by the board. There is a rebuttable presumption that a person who takes more than 30 days to provide information requested by the board has not acted in a timely manner.

(6) Providing and performing the services of funeral directing or embalming in a manner which falls below minimal standards established by statute, rule or practice in the profession.

(7) Disclosing confidential information gained in performance of official duties outside of family members or official persons performing duly authorized duties.

(8) Performing services or providing merchandise not authorized for which charges are made; unless authorization for such items as removal or preparation of remains was not obtained because next of kin or other person responsible for payment of charges could not be located within a reasonable time.

(9) Engaging in misleading or deceptive conduct in the conduct of business or the profession.

(10) Failing to demonstrate respect for the sanctity of human remains or for the feelings of individuals involved in the grieving process.

(11) Failing to provide to the depositor, within 15 working days of receipt of a payment, written confirmation of receipt and deposit of payment made pursuant to a funeral trust agreement in accordance with s. 445.125 (2), Stats. Such written confirmation shall include the name of the bank, trust company, savings and loan association or credit union, the account number, the date of deposit, and a copy of the deposit slip or other documentary evidence of a payment deposited.

(12) Engaging in solicitation. A funeral director may not initiate written communication, personal or telephone contact for the purpose of obtaining professional employment with persons known to be in need of such services, or where the need of funeral services is imminent.

(13) Engaging in inappropriate sexual contact with clients of the funeral establishment when acting as a grief counselor.

(14) Engaging in unsolicited communications to the board or any board member regarding a matter under investigation by the board. Nothing in this section shall prohibit a licensee from addressing communication on a matter under investigation to the division of enforcement or other appropriate department personnel.

(15) Failing to transfer control over s. 445.125 trust funds pursuant to the depositor's written request made during the lifetime of the potential decedent. Burial trust funds are not the property of the funeral director named as beneficiary under the trust agreement. A funeral director may not impede the inter vivos designation of a different beneficiary by withholding delivery of a passbook or other indicia of control over the funds, or by other behavior.

(16) Failure by the holder of a funeral establishment permit, upon the closing of the funeral establishment, to notify all depositors of funeral trust agreements of the closing of the establishment. Notification shall be in writing and shall be mailed or personally delivered to the depositor or the depositor's representative within 15 days of the date that the establishment ceases its operation.

(17) Violating or attempting to violate any term, provision, or condition of any order of the board.

History: Cr. (1), (2), (8), (9), (12) to (16); (intro.), (3) to (7), (9) and (11) renum. from FDE 3.01 (intro.), (1), (3) to (6), (8) and (11) and am. (3) to (6) and (9), Register, July, 1988, No. 391, eff. 8-1-88; cr. (17), Register, September, 1993, No. 453, eff. 10-1-93.