Chapter FD 6

BURIAL AGREEMENTS FUNDED WITH LIFE INSURANCE

FD 6.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.08 (5) (b), 227.11 (2), 445.125 (3m) (b) 2. b. and (j) 1. and 2., Stats., and govern the registration and regulation of agents.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.02 Definitions. In this chapter:

(1) "Agent" means an authorized representative of a funeral director or an operator of a funeral establishment who sells or solicits the sale of a burial agreement that is funded with the proceeds of a life insurance policy.

(2) "Board" means the funeral directors examining board.

(3) "Department" means the department of regulation and licensing.

(4) "Evidence of attendance" means an official transcript, student grade report, or a written form furnished by a program provider which specifies satisfactory completion of an educational training program.

(5) "Program provider" means an educational institution, governmental agency, professional or trade association or foundation or a private firm or individual whose function is educational training programming.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.03 Registration requirements. (1) A licensed funeral director or operator of a funeral establishment shall submit an application with all of the following information:

(a) The identity of any agent authorized by s. 445.125 (3m), Stats., to sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy on behalf of the licensed funeral director or operator of a funeral establishment.

(b) The agent's Wisconsin life insurance intermediary's license number and expiration date, and the insurer or insurers whom the agent is listed to represent.

(c) Evidence satisfactory to the board that the agent has successfully completed at least 20 hours of approved educational training as provided in s. FD 6.05. An agent who is a Wisconsin licensed funeral director and a Wisconsin licensed insurance intermediary shall be exempt from having to complete the 20 hours of approved educational training as provided in s. FD 6.05.

(2) A copy of each contract between an agent and an operator of a funeral establishment shall accompany the application.

(3) The application shall be accompanied by the fee authorized in s. 440.05 (1), Stats.

(4) Upon receipt of an application and payment of the fees, the board shall issue a registration card to an agent.

(5) No agent may sell or solicit the sale of a burial agreement funded with the proceeds of a life insurance policy unless he or she is registered by the board.

Note: Application forms are available upon request to the Funeral Directors Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.04 Change of employment. A licensed funeral director or operator of a funeral establishment shall notify the board within 30 calendar days of the termination of any contract he or she has with an agent.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.05 Training requirements. (1) Educational training shall include the following subjects:

(a) The funeral industry practice regulations of the federal trade commission, and any other applicable federal statutes and regulations related to the funeral service industry including, but not limited to, the occupational safety and health act.

(b) The funeral industry practice regulations contained in the Wisconsin statutes and administrative code including, but not limited to, burial agreements and any applicable impoverishment provisions.

(c) The ethics of funeral service marketing.

(d) Funeral service and final disposition options.

(e) Funding mechanisms for burial agreements.

(f) Financial benefits available at the time of death including, but not limited to, veteran's benefits, social security income, pensions, and human services benefits.

(g) Grief communication skills.

(2) Educational training credit for participation in a multiple–day program, in which each day of the program is a prerequisite for each succeeding day, shall be granted only for completion of the entire program.

(3) Credit for attendance at an educational training program shall be given to an agent if all of the following apply:

(a) The program has been approved by the board under s. FD 6.06.

(b) The agent provides evidence of attendance satisfactory to the board.

(c) The agent takes and successfully passes a comprehensive examination administered by the program provider.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.06 Approval of educational training programs. (1) To obtain approval of an educational training program, the program provider shall submit an application to the board on a form provided by the board which shall include evidence of all of the following:

(a) Information that the program relates to the following subject areas:

1. The funeral industry practice regulations of the federal trade commission, and any other applicable federal statutes and regulations related to the funeral service industry including, but not limited to, the occupational safety and health act.

2. The funeral industry practice regulations contained in the Wisconsin statutes and administrative code including, but not limited to, burial agreements and applicable impoverishment provisions.

3. The ethics of funeral service marketing.

4. Funeral service and final disposition options.

5. Funding mechanisms for burial agreements.

6. Financial benefits available at the time of death including, but not limited to, veteran's benefits, social security income, pensions, and human services benefits.

7. Grief communication skills.

(b) The program is available to all agents regardless of membership or affiliation with any organization.

(c) The program provider agrees to monitor the continuous attendance of participants and to furnish to each participant with evidence of attendance.

(2) A separate application shall be submitted for each educational training program. Approval of an educational training program expires on December 31 of each odd–numbered year.

(3) A program provider shall apply for approval of an educational training program at least 30 days prior to its presentation.

(4) An educational training program may include subject content other than that specified in sub. (1); however, the board shall limit its approval only to that part and time segments of the program which relate to subject areas specified in sub. (1).

(5) In–service educational training programs sponsored by a funeral establishment or insurance company are not eligible for credit unless the programs are available to all agents and meet all other requirements in this section.

Note: Application forms are available upon request to the Funeral Directors Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.07 Standards for burial agreements funded by life insurance proceeds. A burial agreement shall be in written form that is clear and conspicuous, and shall include all of the following:

(1) The identity of the funeral establishment and the insurer or insurers that the agent represents.

(2) The identity of the funeral establishment that will be used to provide the funeral services or merchandise under the agreement.

(3) The nature and extent of any price guarantees for the funeral merchandise or funeral services, or any other guarantees that exist.

(4) Information that a life insurance policy is involved in or connected to, or is being used to fund, the burial agreement.

(5) The type of insurance instrument that is being used to fund the burial agreement.

(6) The effect on the burial agreement of all of the following:

(a) Changing the life insurance policy, including, but not limited to, changing the assignment of the policy proceeds, changing the beneficiary designation, or changing the use of the proceeds.

(b) Any penalties incurred by the policyholder as a result of failing to make premium payments.

(c) Any penalties incurred or money received as a result of cancellation or surrender of the life insurance policy.

(7) A statement of funeral goods and services selected under the burial agreement and the price of each item or service provided under the burial agreement, including a statement as to whether the purchase price of the funeral merchandise and services are guaranteed at the time the burial agreement is arranged or whether the price is to be determined at the time of need. If the price of funeral merchandise or services is to be determined at the time of need, those prices may not exceed the prices as set forth in the funeral establishment's general price list required under the funeral industry practices regulations of the federal trade commission.

(8) All information concerning what occurs, and whether any entitlements arise, if there is a difference between the proceeds of the life insurance policy and the amount of money actually needed to fund the burial agreement.

(9) Any restrictions, including geographic restrictions, or penalties relating to delivery or performance under the burial agreement, including any restrictions or penalties relating to the inability of the operator of the funeral establishment to perform.

(10) A statement as to whether the sales commission or other form of compensation is being paid to the agent who sells or solicits the sale of a burial agreement and the life insurance used to fund the burial agreement and, if so, the identity of any other persons to whom the commission or other compensation is paid.

(11) The following statement in not less than 12–point boldface type: **"Burial agreements are regulated by the Wisconsin Funeral Directors Examining Board. Should you have a complaint, please contact the Board at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708 or by telephone at (608) 266–5511."**

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.08 Contractual standards for agents and operators of funeral establishments. A copy of each contract between an agent and an operator of a funeral establishment shall be sent to the board along with the agent's application for registration as required in s. FD 6.03. A contract between an agent and an operator of a funeral establishment shall include all of the following:

(1) A statement that the agent is currently licensed as a life insurance intermediary in Wisconsin and is currently listed with an insurer or insurers who is authorized to sell life insurance used to fund a burial agreement in Wisconsin.

(2) A statement that the agent has received the required training pursuant to s. 445.125 (3m) (b) 2. a., Stats., and will obtain any additional training as required by the board.

(3) A statement that the agent shall immediately notify the operator of the funeral establishment at any time while the contract between the agent and operator of the funeral establishment is in effect if any of the following occur:

(a) The agent's life insurance license is suspended or revoked.

(b) There are any changes to listings with insurers.

(4) A statement that the agent will abide by the funeral industry practices regulations of the federal trade commission, and all applicable Wisconsin statutes and rules.

(5) A statement as to whether the sales commission or other form of compensation is being paid to the agent who sells or solicits the sale of a burial agreement and the life insurance used to fund the burial agreement and, if so, the identity of any other persons to whom the commission or other compensation is paid.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.09 Requirements for terminating a burial trust. Written notice shall be sent to the board by an agent, licensed funeral director or operator of the funeral establishment when a consumer terminates a trust as established under s. 445.125 (1), Stats. The following information shall be included in the written notice that an agent, funeral director, or operator of a funeral establishment gives to a consumer and to the board when the consumer terminates a burial trust and converts to a burial agreement funded by the proceeds of a life insurance policy:

(1) The name of the individual for whom the existing burial trust is intended.

(2) The date on which the original burial trust agreement was made.

(3) The name of the funeral establishment that was designated on the original burial trust agreement.

(4) The name of the bank, trust company, savings and loan association, or savings bank in which the burial trust funds have been held.

(5) The current value of the trust.

(6) The name of the life insurance company issuing the life insurance policy intended to fund the burial agreement.

(7) The name of the agent who sells the life insurance policy.

(8) The name of the funeral establishment that will be designated on the life insurance policy as the beneficiary.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.

FD 6.10 Solicitation of prospective purchasers of burial agreements funded with the proceeds of a life insurance policy. (1) No funeral director, owner of a funeral establishment, or agent may initiate any telephone call using an automatic telephone dialing system or an artificial or prerecorded voice for the purpose of selling or soliciting a burial agreement funded by the proceeds of a life insurance policy to any of the following:

(a) The telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment.

(b) Any residential or business telephone line without the prior express written consent of the called party.

(c) The residential or business telephone of a person or relative of a person whose death is imminent or appears to be imminent.

(2) A funeral director, owner of a funeral establishment, or an agent may initiate a telephone call by live–voice for the purpose of selling or soliciting a burial agreement funded with the proceeds of a life insurance policy only if all of the following apply:

(a) Written notice is sent by a funeral director, owner of a funeral establishment, or agent to the prospective customer at least 10 days in advance of the call.

(b) Written notice shall advise the customer of all of the following:

1. The name of the funeral director, owner of a funeral establishment, or agent who will be calling, the name of the person or entity upon whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

2. That the call will only be made between the hours of 9:00 a.m. to 7:00 p.m. central standard time.

3. The specific reason for the call in no less than 12–point type.

4. That a prospective purchaser may call the person or entity upon whose behalf the call is being made to request that no call be made. This statement shall be in no less than 14–point, bold–faced type.

(3) A funeral director, owner of a funeral establishment, or agent who sells or solicits the sale of burial agreements funded by the proceeds of life insurance as in sub. (2) shall do all of the following:

(a) Immediately provide the called party with the name of the funeral director, owner of a funeral establishment or agent, the name of the person or entity upon whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted.

(b) Have a written policy available, upon demand, for maintaining a do–not–call list.

(c) Record the name and telephone number of persons who request placement on the do–not–call list at the time the request is made. No further calls may be made to a person who has requested placement on the do–not–call list.

(4) A funeral director, owner of a funeral establishment, or agent may by live voice contact:

(a) A prospective purchaser of a burial agreement funded by the proceeds of a life insurance policy or the prospective purchaser's authorized representative, in a hospital, health care facility, elderly home or similar establishment, only if the prospective purchaser or the prospective purchaser's authorized representative requests the contact.

(b) A prospective purchaser of a burial agreement funded by the proceeds of a life insurance policy whose death is imminent or appears to be imminent only if the prospective purchaser or the prospective purchaser's authorized representative requests the contact.

(5) Unless the board substantially modifies this section, no funeral director, owner of a funeral establishment, or agent may initiate on or after January 1, 2000, any telephone call by live–voice or by using an automatic telephone dialing system or an artificial prerecorded voice for the purpose of selling or soliciting a burial agreement funded by the proceeds of a life insurance policy to any of the following:

(a) The telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment.

(b) Any residential or business telephone line without the prior express written consent of the party.

(c) The residential or business telephone line of a person or relative of a person whose death is imminent or appears to be imminent.

History: Cr. Register, October, 1997, No. 502, eff. 11–1–97.