

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS
FUNERAL DIRECTORS	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 074-20, was approved by the Governor on May 29, 2020, published in Register 774A3 on June 15, 2020, and approved by the Funeral Directors Examining Board on June 30, 2020. This emergency rule was approved by the Governor on October 9, 2020.

ORDER

An order of the Funeral Directors Examining Board to repeal FD 1.04 (2); to amend FD 1.02 (3) and (4), 1.04 (title), (intro.), and (1), 1.05 and 1.055; to repeal and recreate FD 4.03 (1); and to create FD 4.03 (1m), relating to licensure and continuing education requirements for funeral directors and funeral director apprentices.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Legislature by 2019 Wisconsin Act 137, Section 8, provides an exemption from a finding of emergency for the adoption of the rule.

ANALYSIS

Statutes interpreted: Sections 445.045 (1), 445.07, and 445.095 (1), Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), 445.03 (2) (a), and 445.07 (3), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides “[e]ach 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 227.11 (2) (a), Stats. provides “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..”

Section 445.03 (2) (a), Stats. authorizes the board to “[m]ake and enforce rules...for the examination and licensing of funeral directors and the registration of apprentices.”

Section 445.07 (3), Stats. authorizes the board to make rules implementing the continuing education requirements in s. 445.07, Stats.

Related statute or rule: None.

Plain language analysis:

This rule project makes several updates to chs. FD 1 and FD 4 in light of 2019 Wisconsin Act 137. FD 1 regarding funeral director and apprentice credentialing are revised to reflect that 24 semester credits of college are now required for licensure instead of 2 academic years. No changes are made to the required course subject matter. The requirement for certification as an apprentice that the 16-hour certification course be taken regardless of whether the applicant has completed mortuary school, is also removed. The certification class will no longer be required for apprenticeship applicants who have already completed mortuary school.

Finally, the continuing education requirements in FD 4 are revised to reflect that in the first biennium following licensure as a funeral director, the licensee will be required to complete 4 hours of continuing education that the board has deemed necessary to prepare a new licensee for practice.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A.

Comparison with rules in adjacent states:

Illinois: Illinois provides for a funeral director’s license and a funeral director and embalming license. The funeral director only license requires 12 continuing education credits per renewal period, and the funeral director and embalming license requires 24 credits. Licensees are not required to meet the continuing education requirement during the renewal period immediately following their initial licensure (Ill. Admin. Code § 1250.220 (a)).

Illinois requires funeral director applicants to complete an internship. There is not a certification course required prior to beginning the internship. At minimum, however, must have completed at least 30 semester or 45 quarter college credit hours along with the completion of a 12 month mortuary science program (Ill. Admin Code § 1250.120 (a)).

Iowa: Iowa code requires a funeral director licensee to complete at least 24 continuing education credits per renewal period. Licensees are not required to complete continuing education during the first renewal period immediately following their licensure (645 IA Admin. Code § 102.2 (1)).

Iowa requires funeral director applicants to complete a one-year internship (645 IA Admin. Code § 101.3 (1)). The internship must be completed after the education and examination requirements for funeral director licensure are met. This includes a minimum of 60 credits from an accredited college or university, not including any credits for technical mortuary science instruction, completion of a mortuary science program, and at least a one credit course in Iowa law and administrative rules relevant to the practice of funeral directing (645 IA Admin. Code § 101.2 (1)).

Michigan: Michigan requires funeral director license candidates to complete a one-year resident trainee program under the supervision of a licensee, graduate from a 3-year mortuary science course at an accredited school, college, or university, pass an examination, and be a person of good moral character (MCL § 339.1806 (1)). A resident trainee license can be issued to an individual who has a high school diploma and is of good moral character (MCL § 339.1808 (1)). It does not appear that any particular order is required in completing the requirements for licensure as a funeral director, nor does Michigan appear to require continuing education for licensees.

Minnesota: Minnesota requires applicants for a funeral director license to first complete the education requirement for licensure, which is at a minimum an aggregation of college credits substantially equivalent to a bachelor's degree plus a course of study in mortuary science. Once the education requirement is complete the applicant must pass the required examination. Finally, a 2,080 hour internship is required to be completed within 3 years. It does not appear that continuing education is required to renew a funeral director license.

Summary of factual data and analytical methodologies:

The board must revise its rules to match the statutory requirements enacted by 2019 Wisconsin Act 137. Failure to do so would result in the rules remaining inconsistent with state statute and result in confusion to stakeholders as to what the law is.

Fiscal Estimate:

Attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, 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 Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the hearing scheduled for 9:30 AM on November 17, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. FD 1.02 (3) and (4) are amended to read:

FD 1.02 (3) Evidence of completion of ~~2 academic years~~ at least 24 semester credits of instruction in a recognized college or university meeting the requirements of s. FD 1.04.

(4) Evidence of completion of 9 months or more instruction in a prescribed course in mortuary science meeting the requirements of s. FD 1.05 ~~after having completed a 16-hour certification class approved by the board.~~

SECTION 2. FD 1.04 (title), (intro.), and (1) are amended to read:

FD 1.04 ~~Two academic years of~~ College instruction. To meet the ~~requirements~~ requirement of ~~24 academic years~~ 24 semester credits of instruction specified in s. 445.045 (1) (d), Stats., an applicant shall submit to the board an official transcript of courses from a regionally accredited college showing that the applicant has completed ~~a course of study with 60~~ at least 24 semester credit hours in the following areas:

(1) English/Communication skills.

SECTION 3. FD 1.04 (2) is repealed.

SECTION 4. FD 1.05 and 1.055, as affected by CR 19-163, are amended to read:

FD 1.05 ~~After completing a 16-hour certification class approved by the board, the following shall be accepted as compliance with s. 445.045 (1) (e), Stats.~~ The candidate shall have satisfactorily completed 9 months or more instruction in a prescribed curriculum in funeral service education, either before or after completing the 1 year apprenticeship required under s. 445.095, Stats., offered by an educational institution

accredited by the American board of funeral service education or otherwise deemed to be equivalent by the funeral directors examining board.

FD 1.055 ~~In addition to s. FD 1.05~~ Prior to beginning the 1 year apprenticeship required under s. 445.095, Stats., the applicant must provide evidence of completion of an in-person 16-hour certification class approved by the board, unless the applicant has already completed the mortuary school requirement in s. FD 1.05, in which case the certification course is not required.

SECTION 5. FD 4.03 (1) is repealed and recreated to read:

FD 4.03 (1) For the renewal of a license that expires on the first renewal date after the date on which the examining board initially granted the license, completion of 4 credit hours of continuing education subsequent to the date the applicant was granted the initial license is required. The required 4 credit hours of continuing education may include instruction in any of the following topics that the board has determined may prepare a new licensee for practice as a funeral director:

- (a) Embalming.
- (b) Life insurance.
- (c) Hospitality.
- (d) Celebrant training.
- (e) Crematory operation.
- (f) Public speaking.
- (g) Small business management.
- (h) Marketing, including the use of graphic design and social media.
- (i) Other topics deemed appropriate by the board.

SECTION 6. FD 4.03 (1m) is created to read:

FD 4.03 (1m) Every funeral director, except as described in ss. FD 4.03 (1) and 4.05, shall complete at least 15 hours of approved continuing education programs in each biennial registration period, as specified under s. 445.06, Stats.

SECTION 7. EFFECTIVE DATE. This emergency rule shall take effect upon publication in the official state newspaper.

(END OF TEXT OF RULE)

Dated: August 31, 2020

Marc Eernisse / c.a.

Chair