

Clearinghouse Rule 07-049

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING
FUNERAL DIRECTORS EXAMINING : BOARD ADOPTING RULES
BOARD : (CLEARINGHOUSE RULE 07-)

PROPOSED ORDER

An order of the Funeral Directors Examining Board to amend FD 4.04 (1) (intro.); and to create FD 4.04 (8), relating to continuing education requirements.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes interpreted:

Section 445.06, Stats.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 445.03, Stats.

Explanation of agency authority:

The Funeral Directors Examining Board is authorized to promulgate rules relating to continuing education under s. 455.03, Stats.

Related statute or rule:

There are no other statutes or rules other than those listed above.

Plain language analysis:

This proposed rule-making order relates to continuing education requirements for funeral directors. Licensed funeral directors are required to complete 15 hours of continuing education during each 2-year licensure period. The modifications to the existing continuing education rules will enable funeral directors to take a wider selection of courses from certain recognized providers without also having to go through the course approval process.

SECTION 1 adds an exception to the existing continuing education rules for licensed funeral directors which will permit licensees to obtain continuing education credits from certain recognized entities.

SECTION 2 adds another acceptable means for obtaining continuing education. Under this provision, funeral directors may take continuing education courses from one of these recognized providers without having to go through the formal course approval process.

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

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states:

Illinois:

Twelve hours of continuing education are required every two years. Attendance at programs that are sponsored by accredited colleges or universities and several local, state, and national associations and meet certain criteria is acceptable continuing education by rule and does not need preapproval. Sponsors are required to fill out an application that states that they are meeting all required criteria. Rules can be viewed by going to the Illinois Department of Financial & Professional Regulation Division of Professional Regulation at <http://www.idfpr.com/dpr/default.asp>, click on Funeral Director and then Funeral Director Rules.

Michigan:

Continuing education is not required in Michigan. Rules can be viewed by going to the Department of Labor & Economic Growth at <http://www.michigan.gov/cis>, click on Commercial Services & Corporations and then Licensing Services, followed by Funeral Directors, then Administrative Rules.

Minnesota:

Twelve hours of continuing education are required every two years. Rules specifically state that the “commissioner may, upon presentation of an appropriate program of continuing education developed by the Minnesota Funeral Directors Association, require continuing education hours for renewal of a license to practice mortuary science.” Rules can be viewed by going to the Minnesota Department of Public Health Mortuary Science Section at <http://www.health.state.mn.us/divs/hpsc/mortsci/>, click on Regulations.

Iowa:

Twenty-four hours of continuing education are required every two years. Attendance at programs that are sponsored by state or national funeral associations that meets certain criteria is acceptable continuing education by rule and does not need preapproval. Rules can be viewed by going to the Iowa Department of Public Health at <http://idph.state.ia.us/licensure/default.asp>, click on Mortuary Science Board and then Continuing Education.

Summary of factual data and analytical methodologies:

No study resulting in the collection of factual data was used relating to this rule. The primary methodology for revising the rule is the board's analysis and determination that a rule change is necessary.

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

The proposed rules would allow certain continuing education course providers to receive pre-approval from the board rather than have to submit each course for approval. There are 1313 funeral directors licensed in Wisconsin. Of the 1313 funeral directors, a significant percentage of them probably work in small business. This rule change will have a minimal, if any, effect on small business. The proposed rules would make it easier for certain providers to obtain approval for continuing education. Also, it may make it more likely that a course will receive board approval and a licensee will receive their continuing education credit as some providers will no longer have to affirmatively submit their course for approval.

Section 227.137, Stats., requires an "agency" to prepare an economic impact report before submitting the proposed rule-making order to the Wisconsin Legislative Council. The Department of Regulation and Licensing is not included as an "agency" in this section.

Anticipated costs incurred by private sector:

The department finds that this rule has no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that the proposed rule will have no significant fiscal impact.

Effect on small business:

These proposed rules will have no significant 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 larry.martin@drl.state.wi.us, or by calling (608) 266-8608.

Agency contact person:

Pamela Haack, Paralegal, Department of Regulation and Licensing, Office of Legal Counsel, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935. Telephone: (608) 266-0495. Email: pamela.haack@drl.state.wi.us.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Pamela Haack, Paralegal, Department of Regulation and Licensing, 1400 East Washington Avenue, Room 152, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by email at pamela.haack@drl.state.wi.us. Comments must be received on or before August 8, 2007 to be included in the record of rule-making proceedings.

TEXT OF RULE

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

FD 4.04 Approval of continuing education programs. (1) (intro.) ~~To~~ Except as provided in sub. (8), to obtain approval of a continuing education program, the program provider shall submit an application to the board on a form provided by the board which shall include:

SECTION 2. FD 4.04 (8) is created to read:

FD 4.04 (8) A continuing education course sponsored by a national, international, state or regional funeral director's association, or an educational institution accredited by the American Board of Funeral Service Education or otherwise deemed to be equivalent by the board, which satisfies the criteria established in sub. (1) and s. FD 4.405, shall be approved by the board without receipt of a course approval application from the program provider.

(END OF TEXT OF RULE)

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.

Dated _____

Agency _____

Chairperson
Funeral Directors Examining Board

