

Report From Agency

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
FUNERAL DIRECTORS EXAMINING : CLEARINGHOUSE RULE 18-075
BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

These rule revisions would not require use of any new or revised forms.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

This rule amends the funeral director apprenticeship requirements and makes them consistent with changes provided in 2017 Wisconsin Act 304.

This rule requires an applicant for a funeral director's license to complete a 16-hour certification class rather than completing one year of college work or equivalent education in addition to completing the required nine months of instruction in mortuary science. The rule provides the required instructional content for the class and provides for a class exam as well as an exam passing standard.

This rule allows the Board to recognize two funeral director apprentices for each funeral establishment and also recognize additional funeral director apprentices as long as the funeral home employs at least one full-time licensed funeral director per funeral director apprentice.

This rule specifies that when an apprentice is in the preparation room the apprentice must be within the supervising funeral director's line of sight.

This rule establishes that the Board must continue an apprenticeship for another four-year term after the registration or extension expires if the apprentice successfully retakes the 16-hour, Board approved, certification class.

Finally, this rule requires that apprentices applying for funeral director licensure must present affidavits from the licensed funeral directors under whom the apprentice worked to verify that the apprentice completed the practical apprenticeship work requirements.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Board held a public hearing on November 27, 2018. The following people either testified at the hearing, or submitted written comments:

Gabriel Schauf, Instructor at Milwaukee Area Technical College

Erin Longmire, Executive Director of the Funeral Service & Cremation Alliance of Wisconsin

The Board summarizes the comments received either by hearing testimony or by written submission as follows:

Mr. Schauf pointed out that the narrative in the draft's plain language analysis section was confusing and seemed to indicate the mortuary course was required to be taken after the 16-credit course.

Ms. Longmire inquired about s. FD 1.075 (3) and whether less restrictive language could be used to allow apprentices in a preparation room at certain times without being in the line-of-sight of a funeral director.

The Board explains modifications to its rule-making proposal prompted by public comments as follows:

This plain language analysis narrative issue raised by Mr. Schauf was updated to eliminate the confusion regarding the mortuary class.

With respect to comments by Ms. Longmire regarding s. FD 1.075 (3) of the draft, the Board reviewed s. 445.095 (2) (b) of the statutes and concluded the rule was consistent with statutory language.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: Two statutory references should be made more specific.

Response: Both citations made more specific.

Comment: Defining the term "applicant" is unnecessary.

Response: Definition of "applicant" was removed.

Comment: The Clearinghouse states that the “American Board of Funeral Service Education” should not be capitalized.

Response: Although the Board agreed to concur with the Clearinghouse on this point, the ABFSE is a national accreditation agency and it would appear to be grammatically correct to capitalize the name of this agency.

Comment: The Clearinghouse recommended a stylistic language change in FD 1.076 (1) which they believe would be add language precision and clarity.

Response: Language modified per Clearinghouse suggestion.

Comment: The Clearinghouse suggested deleting the words, “retakes and” from s. FD 1.07 (2).

Response: The Board rejected this comment because s. FD 1.07 no longer exists. A later interpretation of this comment suggests the Clearinghouse likely meant to cite s. FD 1.076 (2). Nonetheless, because this was deemed a non-material suggestion, it will be left to any future rule update to consider this change.

Comment: The term, “Department” should not be capitalized in this instance.

Response: Change was implemented.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

This rule was not submitted to the Small Business Regulatory Review Board.

This rule does not have an economic impact on small businesses.