

STATE OF WISCONSIN
Funeral Directors Examining Board

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE
FUNERAL DIRECTORS EXAMINING BOARD

ORDER OF THE FUNERAL DIRECTORS EXAMINING BOARD
ADOPTING RULES
(CLEARINGHOUSE RULE 17-048)

ORDER

An order of the Wisconsin Funeral Directors Examining Board to renumber and amend FD 4.04 (1) (c) and (d); to amend FD 4.03 (6), (7), (8), FD 4.04 (1) (intro.), FD 4.04 (1) (intro.), (a) 4., and (b), FD 4.04 (6); and to create FD 4.02 (3m) and (3n), FD 4.03 (6m), FD 4.03 (11), FD 4.04 (1) (c) (intro.), and FD 4.06, relating to continuing education requirements for funeral directors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 445.03 (2) (a), 445.06, and 440.075, Stats.

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

Explanation of board authority:

Section 15.08 (5) (b), Stats. – Each 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 445.03 (2)(a), Stats., allows examining boards to make and enforce rules not inconsistent with this chapter establishing professional and business ethics for the profession of funeral directors and for the general conduct of the business of funeral directing, and for the examination and licensing of funeral directors and the registration of apprentices.

Related statute or rule:

Wisconsin funeral director licensing requirements are found in ch. 445, Stats., “Funeral Directors”, and administrative rules promulgated by the Funeral Directors Examining Board found in chs. FD 1 to 6. Chapter 440, Stats., Department of Safety and Professional Services, and chs. SPS 1 to 9 outline the Department of Safety and Professional Services’ administrative procedures for issuing licenses.

Plain language analysis:

Under s. 445.06, Stats., every funeral director is required to complete at least 15 hours of continuing education during each two-year licensure period, except that new licensees are exempt from this

requirement during the time between initial licensure and commencement of a full two-year licensure period.

FD 4 adds definitions and updates terminology to reflect changes in continuing education delivery methods. The rule also establishes qualifications for continuing education instructors and allows continuing education credit for funeral directors if they serve on the Funeral Directors Examining Board or engage in other professional activities. This rule also allows for an audit of the funeral director continuing education requirements.

The primary goal of this rule revision is to modernize the rule. Many of the provisions in the rule were first established in 1986 and have not been substantially revised since then. Terminologies, particularly regarding continuing education programs, do not accommodate new methods of delivering continuing education content.

This rule is not likely to have a significant economic impact on small businesses.

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

Federal regulations do not govern continuing education requirements for funeral directors.

Comparison with rules in adjacent states:

Illinois: In Illinois every funeral director must complete 24 hours of continuing education for each two year licensure period. For the 2015 and 2017 renewals, the 24 hours must include a minimum of 6 hours related to the practice of funeral directing and a minimum of 6 hours related to the practice of embalming. Beginning with the 2019 renewal, the 24 hours must include a minimum of 9 hours related to the practice of funeral directing and a minimum of 9 hours related to the practice of embalming. No more than 6 hours may consist of insurance courses.

Iowa: Iowa requires 24 hours of continuing education per two years of licensure.

Michigan: Michigan has no continuing education requirements.

Minnesota: Minnesota requires 12 hours of continuing education per two years of licensure.

Summary of factual data and analytical methodologies:

This rule was developed following a review of other Midwestern state policies along with multiple meetings and direct input from members of the Funeral Directors Examining Board. The Funeral Directors Examining Board reviewed the rule and statutory requirements and provided input throughout the drafting process.

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

The department posted this rule for 14 days to solicit economic impact comments.

Fiscal Estimate and Economic Impact Analysis:

The economic impact analysis is 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 Kirsten.Reader@Wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and de adline for submission:

Comments may be submitted to Greg DiMiceli, Rule Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments shall be received on or before August 1, 2017, to be included in the record of rule-making proceedings.

TEXT OF RULE

Section 1. FD 4.02 (3m) and (3n) are created to read:

FD 4.02 (3m) "In-service" means continuing education approved by the board that is provided by a licensed funeral director to staff of the funeral director's funeral establishment and is available to all funeral directors.

(3n) "Professional activity" means any of the following:

- (a) Serving on the Funeral Directors Examining Board.
- (b) Serving on the Milwaukee Area Technical College Funeral Services Advisory Committee.
- (c) Serving on the National Funeral Director committee or board.
- (d) Serving on the state, district board, or committee of the Wisconsin Funeral Director Association.
- (e) Serving on the Funeral Service Alliance committee or board.
- (f) Serving on the American Board of Funeral Education committee or board.
- (g) Serving on the Order of the Golden Rule committee or board.
- (h) Serving on the National Selection of Morticians committee or board.

Section 2. FD 4.03 (6) is repealed and recreated to read:

FD 4.03 (6) Continuing education credit may be granted for teaching or presenting any continuing education programs or courses under s. FD 4.04 (1) (a) 1. to 4. No credit will be granted for any subsequent presentations of the same program or course. A teacher or presenter may receive 2 continuing education credits for each hour of presentation.

Section 3. FD 4.03 (6m) is created to read:

FD 4.03 (6m) Two credit hours of continuing education may be granted for one hour of professional activity with a maximum of 6 credit hours of continuing education per biennial registration period for professional activity.

Section 4. FD 4.03 (7) and (8) are amended to read:

FD 4.03 (7) No more than 10 hours of the 15-hour requirement may be acquired through participation in ~~non-contact home study~~ board-approved online programs ~~that have been approved by the board.~~

(8) Each contact or clock hour or lesson ~~or tape~~ completed in a ~~home study~~ board-approved online program ~~that has been approved by the board~~ is equivalent to 1.0 continuing education credit hour.

Section 5. FD 4.03 (11) is created to read:

FD 4.03 (11) The board may count any relevant instruction obtained in connection with military service, as defined in s. 111.32 (12g), Stats., toward satisfying up to 15 hours of continuing education credits per biennial registration period.

Section 6. FD 4.04 (1) (intro.), (a) 4., and (b) are amended to read:

FD 4.04 (1) (intro.) 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~~ ∴ To be approved by the board, a continuing education program shall meet all of the following criteria:

(a) 4. Technical or practical aspects of the profession;∴

(b) The program is available to all funeral directors regardless of membership in or affiliation with any organization;~~and~~∴

Section 7. FD 4.04 (1) (c) (intro.) is created to read:

FD 4.04 (1) (c) (intro.) The program provider does one of the following:

Section 8. FD 4.04 (1) (c) and (d) are renumbered FD 4.04 (1) (c) 1. and 2. and amended to read:

FD 4.04 (1) (c) 1. The program provider of the continuing education program agrees to monitor the continuous attendance of participants and to furnish to each participant evidence of having attended and completed the program at the location of the program;~~or~~∴

2. The program provider of a ~~home study~~ board-approved online continuing education program includes in the program a method satisfactory to the board of determining a participant's successful completion of the ~~home study~~ approved online program.

Section 9. FD 4.04 (6) is amended to read:

FD 4.04 (6) A ~~home study~~ board-approved online program or course taken for academic credit shall be eligible for credit if the program or course relates to subject areas specified in sub. (1) and meets all other requirements in this section.

Section 10. FD 4.06 is created to read:

FD 4.06 Audit. The board may conduct a continuing education audit on any licensee who has received a complaint against the credential holder.

Section 11. **EFFECTIVE DATE.** 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.

(END OF TEXT OF RULE)
