

STATEMENT OF SCOPE

Funeral Directors Examining Board

Rule No.: FD 1 and FD 2

Relating to: Licensure and standards of practice for funeral directors and funeral director apprentices

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to revise Chapters FD 1 and 2 relating to licensure and standards of practice for funeral directors to renumber definitions; to review and possibly revise FD 1 to ensure that the chapter provides adequate guidance as to the instruments, equipment, and supplies that must be in the preparation room; to review and possibly revise FD 1 and 2 to accurately reflect the tasks that funeral director apprentices may perform under either the supervision or personal supervision of a licensed funeral director, and possibly clarify FD 1 regarding when an apprentice must be within the line of sight of a licensed funeral director in the preparation room; to clarify that the instructional topics required under FD 1 must be presented to students via in-person instruction; and to otherwise revise FD 1 and 2 to bring the code into conformity with current drafting standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2017 Wisconsin Act 108 created s. 227.29, Stats. requiring that each agency submit a report to the JCRAR by March 31 of each odd-numbered year identifying any promulgated rules which are unauthorized, obsolete, unnecessary, duplicative, superseded, in conflict with another rule, statute, or court decision, or that are economically burdensome. The agency must also include in its report a description of any actions it is taking to address these issues.

This rule is necessary to remedy issues the Funeral Directors Examining Board has identified as a result of its review of the FD chapters under 2017 Wisconsin Act 108, as well as to make other revisions deemed necessary by the Board.

If the administrative code is not revised to correct these issues, it will result in confusion to stakeholders, and leave the rules out of compliance with state law.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 15.08 (5) (b), Stats., “[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., “[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), Stats., “[t]he examining board may: (a) 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 examining and licensing of funeral directors and the registration of apprentices.

(b) Grant licenses to funeral directors, certificates of registration to apprentices, and permits to operators of funeral establishments...”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule :

Individuals licensed in Wisconsin as funeral directors, funeral director apprentices, and those seeking licensure as funeral directors or funeral director apprentices.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state’s economy as a whole.

Contact Person: Jon Derenne, DSPSAdminRules@wisconsin.gov