

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

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| 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 057-20, was approved by the Governor on May 29, 2020, published in Register 774A1 on June 1, 2020, and approved by the Funeral Directors Examining Board on June 15, 2020. This emergency rule was approved by the Governor on June 30, 2020.

ORDER

An order of the Funeral Directors Examining Board to amend FD 1.055 and 1.056 (1) (i) relating to certification courses for funeral director apprentices.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Funeral Directors Examining Board finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

The Covid-19 epidemic has severely restricted the ability of funeral director apprentice applicants to complete their 16-hour required certification course in an “in-person” format as required by administrative rule. Given the shortage of funeral director practitioners in Wisconsin, it is necessary to facilitate the certification of new apprentices. Therefore, the Funeral Directors Examining Board seeks to temporarily repeal the administrative rule provision requiring the course be completed in-person at least until in-person instruction becomes possible once again.

ANALYSIS

Statutes interpreted: Section 445.03 (2), Stats.

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

Explanation of agency authority:

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...”

Related statute or rule: None.

Plain language analysis:

FD 1.056 (1) (i) is repealed and FD 1.055, as will be amended by CR 19-163 upon its effective date, is amended to remove the requirement that the 16-hour certification course for certification as an apprentice be completed in-person.

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

Comparison with rules in adjacent states:

Illinois:

Applicants for funeral director licensure must complete a 12 month internship within five years of applying for licensure (Ill. Admin. Code § 1250.135). A certification course does not appear to be required prior to beginning the internship, although internship candidates must have completed a course of study in mortuary science (Id. at § 125.120).

Iowa:

Iowa requires completion of a 12 month internship prior to licensure as a funeral director. There do not appear to be education or examination requirements prior to beginning an internship (IAC § 645—101.2 (1)).

Michigan:

Michigan requires applicants for funeral director licensure to complete a one year resident trainee program. Training may begin after completing the required professional education for licensure, but there does not appear to be a certification course that must be taken other than the required college credits (MCL § 339.1808).

Minnesota:

Funeral director internship applicants must first have completed a bachelors in mortuary science, a bachelor's in science plus a course of study in mortuary science, or equivalent, and must pass both national competency and state specific statutes and rules examinations. There does not appear to be an internship certification course requirement other than the required college degree (MN Stats. § 149A.20 (6)).

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board seeks to pursue a rule change that would allow remote instruction for the 16-hour course required for certification as a funeral director apprentice. Given the nature of the Covid-19 epidemic, in-person instruction is not desirable or possible for many applicants and course providers.

The alternative of not implementing this rule would be to deprive funeral director apprentice applicants of certification due to not being able to meet the in-person instruction requirement of the 16-hour certification course.

Fiscal Estimate:

The proposed rules do not have a fiscal impact.

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 public hearing to be held on August 25, 2020 at 9:30 AM to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. FD 1.055, as affected by CR 19-163, is amended to read:

FD 1.055 In addition to s. FD 1.05, the applicant must provide evidence of completion of ~~an in-person~~ 16-hour certification class approved by the board.

SECTION 2. FD 1.056 (1) (i) is repealed.

SECTION 3. This emergency rule shall take effect upon publication in the official state newspaper, except as follows:

(1) Section 1 of this rule takes effect on the effective date of CR19-163. If CR 19-163 does not take effect, Section 1 of this rule is void.

(END OF TEXT OF RULE)

Dated ____ July 1, 2020 ____

Mare Eunisse/c.t.

Chairperson
Funeral Directors Examining Board