

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE
FUNERAL DIRECTORS EXAMINING BOARD

ORDER OF THE FUNERAL DIRECTORS EXAMINING BOARD
ADOPTING EMERGENCY RULES

The statement of scope for this rule, SS 055-18, was approved by the Governor on May 18, 2018, published in Register 749B on May 29, 2018, and approved by the Funeral Directors Examining Board on April 18, 2018.

ORDER

An emergency order of the Funeral Directors Examining Board to repeal FD 6.02 (2) and (3); to renumber FD 2.02 (3), (4), and 4.02 (1), (3); to amend FD 1.01, 1.02 (4), 1.02 (5), 1.05, and 1.08 (note); and to create FD 1.013 (intro.), 1.015 (intro.), 1.015 (1), 1.055, 1.056, 1.075 (3), 1.075 (4), and 1.075 (5), 1.076, 1.077, and 3.015, relating to funeral director apprenticeship requirements.

Analysis prepared by the Department of Safety and Professional Services.

FINDING OF EMERGENCY

The Funeral Director 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.

The Legislature passed 2017 Wisconsin Act 304 changing the requirements for funeral director apprentices. Section 12 of 2017 Act 304 delayed implementation of the statutory changes until November 1, 2018. This emergency rule is necessary to coincide with the effective date of 2017 Act 304 and avoid confusion and disruption of funeral director apprenticeships as a result of the implementation of Act 304.

ANALYSIS

Statutes interpreted: Sections 445.095 and 445.10, 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 “[s]hall 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 the examining board to “[m]ake 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 and apprenticeship requirements are found in ch. 445, Stats., the administrative code in chs. FD 1 to 4 and FD 6, and DSPS administrative code chs. SPS 1 to 9, which outlines the administrative procedures for issuing licenses.

Plain language analysis:

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 after completing the required nine months of instruction in mortuary science. The rule provides the class required instructional content 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.

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

Federal regulations do not govern requirements for funeral director apprentices.

Comparison with rules in adjacent states:

Illinois: Illinois requires 30 semester hours of college credit plus Mortuary College or associate or bachelor's degree in mortuary science. Illinois has a funeral director internship which is considered a one-year apprenticeship. Interns must complete at least 24 funerals, and at least 24 preparations and embalmings. The intern must submit a report for each of the 24 funerals and each 24 body preparations. Reports are filed every three months.

Iowa: Iowa requires a student to have a minimum of 60 semester hours as indicated on the transcript from a regionally accredited college or university with a minimum of 2.0 or "C" grade point and a course in mortuary science from a school accredited by the American Board of Funeral Service Education. The 60 semester hours does not include any technical or vocational mortuary science courses. Iowa has a one-

year funeral director internship program. Interns must perform 25 embalmings and assist in 25 funerals. Interns must report to the state at 6 months and again at 12 months.

Michigan: Applicants in Michigan for mortuary science licenses are required to have completed not less than 60 semester hours or 90 quarter hours. Michigan's program allows for a resident trainee. A resident trainee must complete a list of requirements which includes 25 embalmings. A residency is for one year and can be renewed up to two times. Reporting is required on a six-month interval.

Minnesota: Minnesota requires a Bachelor of Science degree with a major in mortuary science received from an accredited school. Minnesota has an internship program. The internship can last between one and three years. A total of 25 embalmings and 25 funerals must be completed which is documented upon completion.

Summary of factual data and analytical methodologies:

This rule was developed using recommendations from the Wisconsin Funeral Directors Examining Board, technical colleges, the Funeral Service & Cremation Alliance of Wisconsin and other stakeholder groups. No other factual data or analytical methodologies were used.

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

None.

Fiscal Estimate:

The Department of Safety and Professional Services estimates a one-time administrative cost of \$327.11. These costs will be absorbed within the agency's budget.

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 Nathaniel.L.Ristow@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, 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 Greg DiMiceli, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8366, Madison, Wisconsin 53708, or by email to DSPSAdminRules@wisconsin.gov. Comments must be submitted by the date and time at which the public hearing on these rules is conducted. Information as to the place, date, and time of the public hearing will be published on the Department of Safety and Professional Services' website and in the Wisconsin Administrative Register.

TEXT OF RULE

Section 1. FD 1.01 is amended to read:

FD 1.01. Authority and intent. This chapter is adopted pursuant to authority of ss. 15.08 (5) (b), 227.11, 440.08 (3) (b), and 445.03, Stats., to clarify and establish licensure criteria for funeral directors, funeral director apprentices, and funeral establishments.

Section 2. FD 1.013, (intro.) is created to read:

FD 1.013 Definitions. As used in chs. FD 1 to 4 and FD 6:

Section 3. FD 1.015 (intro.) and (1) are created to read:

FD 1.015 Definitions. As used in this chapter:

(1) “Applicant” means any person who applies for a license from the board.

Section 4. FD 1.02 (4) and (5) are amended to read:

FD 1.02 (4). Evidence of completion of 9 months or more instruction in a prescribed course in mortuary science meeting the requirements of s. FD 1.05 after having completed ~~1 year of college work or equivalent education~~ a 16-hour certification class approved by the board.

FD 1.02 (5). Evidence of completion of 1 year of apprenticeship under s. 445.095, Stats. and s. FD 1.077.

Section 5. FD 1.05 is amended to read:

FD 1.05 Mortuary school. ~~The~~ After completing a 16-hour certification class approved by the board, the following shall be accepted as compliance with s. 445.045 (1) (e), Stats. The candidate shall have satisfactorily completed 9 months or more instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the ~~American board of funeral service education~~ American Board of Funeral Service Education or otherwise deemed to be equivalent by the funeral directors examining board.

Section 6. FD 1.055 is created to read:

FD 1.055 Certification class requirement. In addition to s. FD 1.05, the applicant must provide evidence of completion of a 16-hour certification class approved by the board.

Section 7. FD 1.056 is created to read:

FD 1.056 Certification class content. (1) The 16-hour certification class shall contain the following instructional topics:

- (a) Funeral director apprentice expectations.
- (b) Funeral ethics and etiquette.
- (c) Understanding funeral services, gatherings, and various types of dispositions.
- (d) Laws, rules, and regulations of funeral service.
- (e) Workplace safety and Occupational Safety and Health Administration requirements.
- (f) Introduction to funeral service: notification of death, transfers, and arrangements.
- (g) Embalming, dressing, and casketing.
- (h) Grief and psychology of funeral services.
- (i) In-person instruction.

(2) Following the instructional presentation of the material under sub. (1) a written examination, approved by the board, shall be administered.

(3) The written exam shall cover each of the topics under sub. (1) and be included within the 16-hour class requirement.

(4) A passing score of 75 percent on the written exam shall be considered as having successfully completed the certification class.

Section 8. FD 1.075 (3), (4), and (5) are created to read:

FD 1.075 (3). Under this section, when an apprentice is in the preparation room, the apprentice shall be within the line of sight of the supervising funeral director.

(4) The board may recognize the supervision of up to 2 apprentices at a funeral establishment that employs less than 3 full-time funeral directors.

(5) Except as provided in sub. (4), the board may recognize the supervision of additional apprenticeships at a funeral establishment provided the establishment employs at least one full-time funeral director per apprentice.

Section 9. FD 1.076 is created to read:

FD 1.076 Terms of apprenticeship. (1) An apprenticeship shall not exceed 4 years from the time of first registration unless a one-year extension is granted by the board. After 4 years from the time of first registration, or longer if an extension is granted, the apprenticeship may not be continued unless the apprentice demonstrates they have retaken an approved certification class under s. FD 1.055.

(2) If, under this section, the apprentice retakes and successfully completes the board approved certification class, an additional 4-year period, subject to a board extension, shall begin.

(3) If an apprentice does not continue under the requirements of this chapter, the apprenticeship shall terminate.

(4) The provisions of this section shall be suspended while a registered apprentice is an active member of the military of the United States.

Section 10. FD 1.077 is created to read:

FD 1.077 Licensure eligibility. In addition to the requirements under this chapter and s. 445.095, Stats., eligibility for a funeral director license shall require an apprentice to present affidavits from the licensed funeral directors under whom the apprentice has worked to verify that during the apprenticeship the apprentice completed all of the following:

(1) Assisted in embalming for burial or shipment at least 25 dead human bodies.

(2) Assisted in preparing 25 dead human bodies for burial or transportation, other than by embalming.

(3) Assisted in at least 25 funeral services during the apprenticeship.

Section 11. FD 1.08 (Note) is amended to read:

FD 1.08 (Note). Application forms are available through the department's website at <https://dsps.wi.gov/pages/Home.aspx> and upon request at the board office located at ~~1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708~~ 4822 Madison Yards Way, Madison, WI 53705, or P.O. Box 8935 Madison, WI 53708.

Section 12. FD 2.02 (3), (4) are renumbered FD 1.015 (2), (3).

Section 13. FD 3.015 is created to read:

FD 3.015 Definitions. As used in this chapter: "Department" means the department of safety and professional services.

Section 14. FD 4.02 (1), (3) are renumbered FD 1.013 (1) and (2).

Section 15. FD 6.02 (2), (3) are repealed.

Section 16. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of November 2018.

(END OF TEXT OF RULE)

Dated _____

Chair,
Funeral Directors Examining Board