

CERTIFICATE

**STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING**

TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Cletus J. Hansen, Administrator, Division of Business Licensure and Regulation in the Wisconsin Department of Regulation and Licensing and custodian of the official records of the Funeral Directors Examining Board, do hereby certify that the annexed rules were duly approved and adopted by the Funeral Directors Examining Board on the 22nd day of September, 1998.

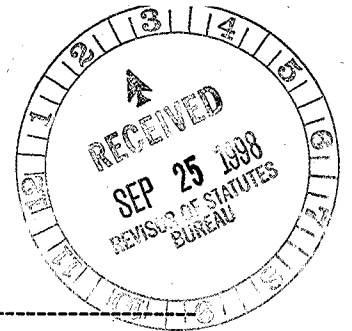
I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the board at 1400 East Washington Avenue, Madison, Wisconsin this 22nd day of September, 1998.



Cletus J. Hansen
**Cletus J. Hansen, Administrator,
Division of Business Licensure and
Regulation, Department of Regulation
and Licensing**

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD



IN THE MATTER OF RULE-MAKING : ORDER OF THE
PROCEEDINGS BEFORE THE : FUNERAL DIRECTORS EXAMINING
FUNERAL DIRECTORS : BOARD ADOPTING RULES
EXAMINING BOARD : (CLEARINGHOUSE RULE 98-057)

ORDER

An order of the Funeral Directors Examining Board to *renumber and amend* FD 2.12; to *amend* FD 1.02, 1.10 (3), 2.02 (1), 2.09, 2.10 (2), 3.02 (4), (7), (11) and (13), 4.03 (7), 4.04 (2) (intro.) and 5.01; to *repeal and recreate* FD 1.03 and 1.10 (1) and (2); to *create* FD 1.035, a Note following FD 1.08, a Note following FD 2.01 and a Note following FD 5.02 (1) (b), relating to the practice of funeral directors.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 445.04, 445.045 and 445.06, Stats.

Statutes interpreted: s. 445.03 (2) (a), Stats.

The Funeral Directors Examining Board amends and repeals existing rules in Chapters FD 1 to 5. The amendments relate to statutory authority; form, style and placement of provisions in the rules; conflicts or duplication of existing rules; the adequacy of references to related statutes, rules and forms; and the clarity, grammar, punctuation and use of plain language. Language is being added concerning accommodations for persons with disabilities. Provisions relating to passing scores of the licensing examinations, examination reviews and dishonest acts by examination candidates are also amended.

TEXT OF RULE

SECTION 1. FD 1.02 is amended to read:

FD 1.02 EXAMINATION APPLICATIONS. Applications for taking the examination for a funeral director ~~or embalmer~~ must be on file at least 30 days before the date of the examination. The board may accept applications after the 30-day limit if the circumstances warrant such procedure.

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 2. FD 1.03 is repealed and recreated to read:

FD 1.03 EXAMINATION GRADE. (1) To pass the initial licensure examination each applicant shall receive a grade determined by the board to represent minimum competence to practice. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The release of grades or the issuance of a funeral director license may be denied if the board determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

SECTION 3. FD 1.035 is created to read:

FD 1.035 EXAMINATION REVIEW. (1) An applicant who fails the state board examination may request a review of that examination by filing a written request with the board within 30 days of the date on which the examination results were mailed.

(2) Examination reviews are by appointment only.

(3) The time for review shall be limited to 4 hours.

(4) An applicant may not be accompanied during the review by any person other than the proctor.

(5) An applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet and a copy of the master answer sheet.

(6) An applicant may review the examination in the presence of a proctor. An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(7) An applicant may not review the examination more than once.

SECTION 4. A Note following FD 1.08 is created to read:

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

SECTION 5. FD 1.10 (1) and (2) are repealed and recreated to read:

FD 1.10 REQUIREMENTS FOR RENEWAL; RESTORATION OF LICENSES. (1) To renew a funeral director license a licensee shall, by January 1 of each even-numbered year following initial licensure, provide all of the following to the board:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the licensee has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. FD 4.03.
- (c) A fee in the amount required under s. 440.08 (2) (a), Stats.

(2) A licensee who fails to meet the requirements of sub. (1) by the renewal date shall cease and desist from practicing as a funeral director. A licensee who fails to meet the requirements of sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her license may renew by furnishing the following to the board:

- (a) An application for renewal on a form provided by the department.
- (b) Evidence that the licensee has completed at least 15 hours of continuing education during the previous 2 year licensure period as required under s. 445.06, Stats., and s. FD 4.03.
- (c) The renewal fee specified in s. 440.08 (2) (a) and (3) (a), Stats.

SECTION 6. FD 1.10 (3) is amended to read:

FD 1.10 (3) A funeral director who files an application for renewal more than 5 years after the ~~renewal expiration~~ expiration date of his or her license may be reinstated by filing with the board an application and fees ~~under specified in~~ specified in s. 440.08 (2) and (3) (a) 2., Stats., ~~and the~~ The board may also require demonstration of competence by various methods, including, but not limited to, written or oral examination, documentation of funeral directing work in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for an initial credential from the board.

SECTION 7. A Note following FD 2.01 is created to read:

Note: Funeral directors must comply with the standards adopted by the Federal Trade Commission and set forth in 16 CFR 453.

SECTION 8. FD 2.02 (1) is amended to read:

FD 2.02 (1) "Funeral arrangements" means the provision of information or advice on selection and cost of merchandise, facilities, equipment or personal services provided for final ~~deposition~~ disposition of a dead human body in the course of formulating a contractual agreement between a funeral director or funeral home and client.

SECTION 9. FD 2.09 is amended to read:

FD 2.09 COMMISSIONS PROHIBITED. ~~Paying~~ Except as provided in s. 445.125 (3m), Stats., paying or accepting a commission or a salary based upon the selling price or number of funeral services sold shall be considered unethical and is therefore prohibited.

SECTION 10. FD 2.10 (2) is amended to read:

FD 2.10 (2) All post-mortem procedures shall be performed and all preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in compliance with the terms and conditions set forth in the United States occupational safety and health administration ~~requirements~~ standard for occupational exposure to ~~blood-borne~~ blood-borne pathogens under 29 CFR 1910.1030. In cases of HIV infection, after the body has been prepared in accordance with s. ~~HSS 316.04~~ HFS 136.04, the usual and customary procedures may be followed for restoration and cosmetology. Following embalming and body preparation, no special precautions need to be observed during visitation.

SECTION 11. FD 2.12 is renumbered FD 1.11 and as renumbered FD 1.11 (2) is amended to read:

FD 1.11 (2) RECOGNIZED FUNERAL ESTABLISHMENT. For purposes of renewal of licenses under s. ~~455.06~~ 445.06, Stats., "recognized funeral establishment" means any building or part of a building used and held out to the public as being used in the care and preparation for burial and transportation of dead human bodies or for holding or conducting of funeral services.

SECTION 12. FD 3.02 (4), (7), (11) and (13) are amended to read:

FD 3.02 (4) Performing of any funeral ~~or embalming duty during the planning or conducting of services~~ director duty while under the influence of alcohol or controlled substances. (Controlled substances are listed in ch. ~~161~~ 961, Stats.)

(7) Disclosing confidential information ~~gained~~ obtained in the performance of official duties ~~outside of family members or official persons performing duty authorized duties.~~

(11) Failing to provide to the depositor, within 15 working days of receipt of a payment, written confirmation of receipt and deposit of payment made pursuant to a funeral trust agreement in accordance with s. 445.125 ~~(2)~~ (1) (b), Stats. Such written confirmation shall include the name of the bank, savings bank, trust company, savings and loan association or credit

union, the account number, the date of deposit, and a copy of the deposit slip or other documentary evidence of a payment deposited.

(13) Engaging in inappropriate sexual contact with clients of the funeral establishment ~~when acting as a grief counselor.~~

SECTION 13. FD 4.03 (7) is amended to read:

FD 4.03 (7) No more than 10 hours of the 15-hour requirement may be acquired through participation in ~~non-contract~~ non-contact home study programs.

SECTION 14. FD 4.04 (2) (intro.) is amended to read:

FD 4.04 (2) (intro.) An application for a continuing education program shall ~~be approved if the application includes the~~ include all of the following:

SECTION 15. FD 5.01 is amended to read:

FD 5.01 QUALIFICATIONS. (intro.) A person licensed as a funeral director in another state may obtain a license as a funeral director under this chapter if the applicant meets all of the following criteria:

- (1) Has met requirements in another state substantially equal to those in this state;
- (2) Has never been disciplined by the licensing authority in any other state, territory or country for any misconduct or violations which ~~evidence~~ demonstrate lack of competence to practice as a funeral director in Wisconsin as determined by the board;
- (3) Is not under any current investigation and is not a party in a proceeding involving a complaint against the applicant which relates to the applicant's practice as a funeral director;
- (4) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats.
- (5) Has satisfactorily completed 9 months or more of instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the American board of funeral service education or deemed to be equivalent by the board; ~~and,~~
- (6) ~~Completes the~~ Passes the board's examination on Wisconsin law ~~with a score of at least 75. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.~~

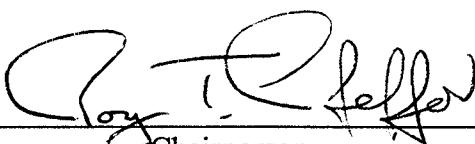
SECTION 16. A Note following FD 5.02 (1) (b) is created to read:

Note: Application forms are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, WI 53708.

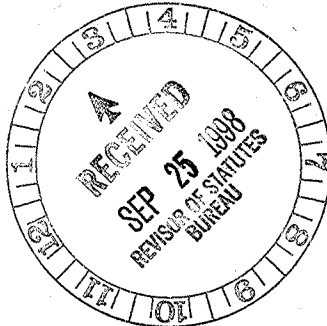
(END OF TEXT OF RULE)

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.

Dated 9-22-98

Agency 
Chairperson
Funeral Directors Examining Board

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9/16/98





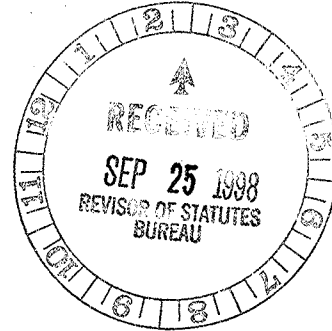
State of Wisconsin
DEPARTMENT OF REGULATION AND LICENSING
CORRESPONDENCE/MEMORANDUM

DATE: September 25, 1998

TO: Gary Poulson
Assistant Revisor of Statutes

FROM: Pamela A. Haack, Administrative Rules Coordinator
Department of Regulation and Licensing
Office of Administrative Rules

SUBJECT: Final Order Adopting Rules



Agency: FUNERAL DIRECTORS EXAMINING BOARD

Attached is a copy and a certified copy of a final order adopting rules. Would you please publish these rules in the register.

Please stamp or sign a copy of this letter to acknowledge receipt.

Thank you.



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

Tommy G Thompson
Governor

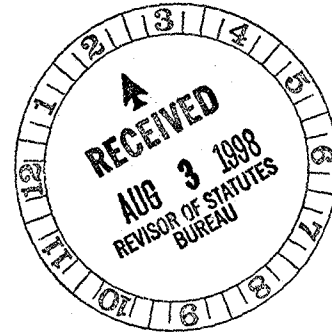
FILE COPY

Marlene A. Cummings
Secretary

1400 E WASHINGTON AVENUE
P O BOX 8935
MADISON WISCONSIN 53708-8935
(608) 266-2112

August 3, 1998

Senator Gary Drzewiecki, Chair
Business, Economic Development and Urban Affairs
119 Martin Luther King Jr. Boulevard
LL2
Madison, Wisconsin 53702



Representative Clifford Otte, Chair
Consumer Affairs
109 West, State Capitol
Madison, Wisconsin 53702

RE: Request to Modify Clearinghouse Rule 98-057

Dear Senator Drzewiecki and Representative Otte:

This letter is a request to make modifications to Clearinghouse Rule 98-057, a proposed rule-making order of the Funeral Directors Examining Board. This proposed order was submitted to the President of the Senate and the Speaker of the Assembly on July 10, 1998, and referred to the Senate Committee on Business, Economic Development and Urban Affairs on July 15, 1998, and to the Assembly Committee on Consumer Affairs on July 17, 1998.

This request is made under s. 227.19 (4) (b) 3., Stats., to delete two paragraphs from Section 5 that were inadvertently included in the proposed order. Specifically, the modification requested is to delete the amendments to section FD 1.10 (1) and (2) which are made in Section 6 of the proposed order. Section 6, as modified, would read as follows:

SECTION 6. FD 1.10 (1), (2) and (3) are is amended to read:

FD 1.10 (3) A funeral director who files an application for renewal more than 5 years after the ~~renewal~~ expiration date of his or her license may be reinstated by filing with the board an application and fees under specified in s. 440.08 (2) and (3) (a) 2., Stats., ~~and the~~ The board may also require demonstration of competence by various methods, including, but not limited to, written or oral examination, documentation of funeral directing work in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for an initial credential from the board.

Regulatory Boards

Accounting; Architects; Landscape Architects; Professional Geologists; Professional Engineers; Designers and Land Surveyors; Auctioneer; Barbering and Cosmetology; Chiropractic; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Psychology; Real Estate; Real Estate Appraisers; Social Workers; Marriage and Family Therapists and Professional Counselors; and Veterinary

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August 3, 1998

A copy of the complete proposed order as modified is enclosed.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Pamela A. Haack".

Pamela A. Haack
Administrative Rules Coordinator

Enclosure

cc: Ron Sklansky, Director, Rules Clearinghouse
Gary Poulson, Deputy Revisor
Clete Hansen, Bureau Director
Jacquelynn B. Rothstein, Legal Counsel