Clearinghouse Rule 16-010

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

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

PROPOSED ORDER

An order of the Funeral Directors Examining Board to repeal FD 5 and to create FD 1.12, relating to reciprocity requirements for funeral directors.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 445.04, 445.045, and 445.06, Stats.

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

Explanation of agency authority:

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.

445.03 (2) (a), Stats. - The examining board may 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 statutes or rules:

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., and chs. SPS 1 to 9 outline the Department of Safety and Professional Services' administrative procedures for issuing licenses, including procedures for disciplinary actions against licensees.

Plain language analysis:

Section 1 streamlines and clarifies licensing requirements for applicants who currently hold an active funeral director's license in good standing in another jurisdiction. The revision aligns the requirements with statutory requirements found in s. 445.08, Stats., "Reciprocity in issuance of licenses." The revision consolidates reciprocity requirements with other licensing information found in FD 1, improving ease of access to licensing information.

Section 2 repeals FD 5, since the rule revision transfers all reciprocity requirements to FD 1.

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

Federal regulations do not govern reciprocity requirements for funeral directors.

Comparison with rules in adjacent states:

Illinois: Applicants who are licensed as a funeral director and embalmer in another jurisdiction and who wish to apply for an Illinois license must submit official transcripts demonstrating that they meet Illinois' educational requirements for funeral directors, an affidavit stating that the applicant has been actively engaged in practice as a funeral director for at least 1 year, certification by the state or territory of original and current licensure stating the time which the applicant was licensed in that jurisdiction, any record of disciplinary actions taken or pending, a brief description of examinations completed and the applicant's grades, and a statement that the state of licensure grants reciprocity to funeral directors and embalmers licensed in Illinois. The Division examines each reciprocity application to determine whether the license held by the applicant is from a jurisdiction substantially equivalent to Illinois' requirements.

Iowa: Applicants who have been licensed as a funeral director under the laws of another jurisdiction may apply for licensure by endorsement with the Iowa board office by submitting an application and licensure fee and providing evidence of meeting licensure requirements similar to those required in Iowa. Applicants are required to provide official academic transcripts showing training in mortuary science, completion of general education requirements, and evidence of completion of at least one semester hour or equivalent in current Iowa law and rules covering mortuary science, cremation, vital statistics, cemeteries, and preneed. The applicant must provide verification of licenses from every jurisdiction in which the applicant has been licensed.

Michigan: Michigan issues a mortuary science license to individuals who hold a valid license in another state if the state has substantially equivalent requirements to Michigan's requirements. Applicants must file the following with the department: An application to practice in the state, a certified statement from the examining board of the state in which the applicant holds a license that shows the basis on which the license was granted, and a statement as to whether that board has suspended, revoked, or limited that license. Michigan also requires proof that the applicant has passed the exam on Michigan's law relating to the practice of mortuary science.

Minnesota: Minnesota may issue a license to practice mortuary science to a person who holds a current license or other credential from another jurisdiction if the commissioner determines the requirements for that license or other credential are substantially similar to Minnesota's mortuary

science practice requirements. A person seeking a reciprocal licensing must pass the Minnesota state licensing examination and submit a completed application form, proof of age, an official transcript from each post high school educational institution attended, certification of passing scores on the National Board Examination and on the state licensing examination.

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board reviewed existing regulations and updated provisions to ensure compliance with statutes governing reciprocity.

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

The department posted the 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 are not anticipated to 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 Jeff.Weigand@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Sandra Cleveland, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-0797; email at Sandy.Cleveland@wisconsin.gov.

TEXT OF RULE

SECTION 1. FD 1.12 is created to read:

FD 1.12 Reciprocity. A person licensed as a funeral director in another state may obtain a license under this chapter if the applicant holds a valid funeral director's license in good standing from another state having requirements determined by the board to be substantially equivalent to the requirements prescribed in s. 445.045, Stats., and this chapter. An applicant for a license under this chapter shall submit all of the following:

(a) A completed application.
(b) The fee specified under s. 440.5 (2), Stats.

(c) If the applicant has an arrest or conviction record, documentation necessary for the board to determine whether the circumstances substantially relate to the practice of funeral director, subject to ss. 111.321, 111.322 and 111.335, Stats.
(d) Verification of license from any state of licensure.
(e) Evidence of passage of the Wisconsin jurisprudence examination for funeral directors.

SECTION 2. FD 5 is repealed.

SECTION 3. 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)