

CR 87-149

CERTIFICATE

RECEIVED

STATE OF WISCONSIN)
)
DEPARTMENT OF REGULATION AND LICENSING) SS

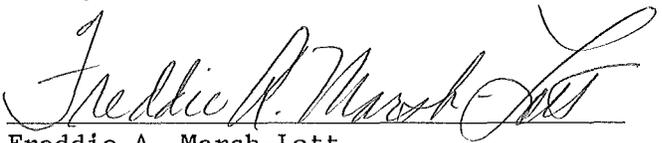
JUN 1 1988
3:00 pm
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Freddie A. Marsh-Lott, Director of the Bureau of Business and Design Professions, and custodian of the official records of the Bureau, do hereby certify that the annexed rules, relating to licenses and permits, standards of practice, rules of conduct and continuing education for funeral directors, were duly approved and adopted by the Funeral Directors Examining Board on March 9, 1988.

I further certify that said copy has been compared to me with the original on file in this board 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 25th day of May, A.D. 1988.


Freddie A. Marsh-Lott
Director, Bureau of Business and Design Professions
Department of Regulation & Licensing

STATE OF WISCONSIN
RECEIVED AND FILED

JUN 01 1988

JOH: gad
TENDAY-4393
DOUGLAS LA FOLLETT
SECRETARY OF STATE

8-1-88

STATE OF WISCONSIN
BEFORE THE FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE FUNERAL
PROCEEDINGS BEFORE THE	:	DIRECTORS EXAMINING BOARD
FUNERAL DIRECTORS EXAMINING BOARD	:	REPEALING, AMENDING OR
	:	ADOPTING RULES
	:	CLEARINGHOUSE RULE 87-149

ORDER

AN ORDER to repeal FDE 2.09, 2.15(1), (2), (4), (5) and (6), 3.01(2), and Chapter FDE 4; to renumber FDE 2.01, 2.12, 2.135, 2.14, 2.18, 3.01(6) and (11), and Chapter FDE 5; to renumber and amend FDE 2.03, 2.04, 2.05, 2.06, 2.10, 2.11, 2.13, 2.15(3), 2.16, 2.17, 3.01(intro.), (1), (3), (4), (5) and (8); to amend Chapter FDE 2(title) and Chapter FDE 3(title); to repeal, recreate and renumber FDE 2.02, 2.07, 2.08 and 3.01(7), (9) and (10); to create Chapter FDE 1(title), FDE 1.01, 2.01, 2.02, 2.06, 2.07(2), 2.08(2), 2.10, 3.01 and 3.02(1), (2), (12), (13), (14), (15) and (16), relating to licenses and permits, standards of practice, rules of conduct and continuing education for funeral directors.

Analysis prepared by the department of regulation and licensing.

ANALYSIS

In this proposal, a number of technical changes are made to update obsolete references, simplify language and generally conform the rules to standards in ch. 227, Stats. Substantive changes are as follows:

1. Section FDE 2.02, on license examination grades, is renumbered 1.03 and rewritten to clarify that, in order to pass the licensing exam, applicants must receive a passing grade on each of the two exam parts.
2. Section FDE 2.06(1) is created to permit apprentice funeral directors to perform embalmings and other preparation of bodies and to make funeral arrangements only under the "personal supervision" of a licensed funeral director. "Personal supervision" is defined in the new section FDE 2.02(3) to mean immediate availability to continually coordinate, direct and inspect at first hand the practice of another.

3. Sections FDE 2.02(1) and (2) are created to define the terms "funeral arrangements" and "funeral services." "Funeral arrangements" is defined to mean the provision of information or advise on selection and cost of merchandise, facilities, equipment or personal services provided for final deposition of a body. "Funeral services" is defined to mean the ceremonies held in conjunction with disposition of the dead, including visitation, religious rites, memorials and graveside services.
4. Section FDE 2.06(2) is created to permit apprentice funeral directors to conduct funeral services or make removals of bodies under the "supervision" of a licensed funeral director. "Supervision" is defined in the new section FDE 2.02(4) to mean regularly to coordinate, direct and inspect the practice of another.
5. Section FDE 2.13, which requires a funeral director who discharges an apprentice to notify the board of the discharge, is renumbered FDE 2.07(1), and amended to require that the notification be in writing. Section FDE 2.07(2) is created to require similar notification of the board when an apprentice voluntarily leaves an apprenticeship.
6. Section FDE 2.08(2) is created to require funeral directors who offer package funerals to provide the consumer with a comparison between the package price and the total cost of the individual components desired by the consumer.
7. Section FDE 2.10(4), relating to procedures on notification of applicants for licensure and procedures on denial of licensure, is repealed, because this subject matter is within the jurisdiction of the department of regulating and licensing rather than the funeral directors examining board.
8. Section FDE 2.10(3) is created to prescribe precautionary sanitary procedures to be followed by funeral service personnel in the transportation, embalming and disposition of bodies known or suspected of having AIDS or of being infected with the virus that causes AIDS, known as HTLV-III or HIV. Specific requirements of the subsection include:
 - All personnel involved in post-mortem care are required to be informed of the confidentiality provisions of s. 146.025, Stats., prohibiting disclosure of a patient's HTLV-III (HIV) antibody test results.
 - Each funeral establishment is required to establish and conspicuously post procedures for the identification, transportation, handling, disinfection and disposal of wastes and contaminated materials.
 - Infected bodies, body parts and wastes, and items that come in contact with them, are required to be labeled, safely handled, and either safely disposed of or properly disinfected.

9. Section FDE 2.11 is renumbered 2.03 and amended to require that all "funeral arrangements" be made either by licensed funeral directors or by apprentices under the "personal supervision" of licensed funeral directors, and that all other dealings with clients and the general public be performed by licensed funeral directors or by persons under the "supervision" of licensed funeral directors.
10. Section FDE 2.15(3) is renumbered 2.08(1) and amended to remove the requirement for licensees to document the method or methods used in determining the funeral needs and desires of the community; under the proposal, only the needs and desires themselves are required to be documented. Also, the proposal removes the requirement that the documentation be available for review by consumers, but retains the requirement that documentation be available for review by the board.
11. Section FDE 2.15(1), (2), (4), (5) and (6) relating to funeral service business practices, are repealed. The subject matter of these regulations are now contained in federal law.
12. Section FDE 2.16 is renumbered 2.05 and the basic requirement that only true funeral establishment names and addresses, as registered with the board, be used in telephone listings and other advertising is retained. The current exception to this basic requirement, permitting different sequences of individual names comprising the true establishment name, is removed. A new exception to the basic requirement is added, which permits a funeral establishment to list under a previous establishment name in a telephone or business directory, provided with the listing contains a reference to the true name registered with the board.
13. Section FDE 2.17 is renumbered 2.11 and amended to remove surplus and unnecessary language regarding the handling of bodies containing radioactive material.
14. Section FDE 3.01(5) is renumbered 3.02(6) and amended to change a standard of unprofessional conduct from "gross negligence" to "performing in a manner which falls below minimal standards established by statute, rules or practice in the profession."
15. Section FDE 3.01(9) is renumbered 3.02(10) and the vague and archaic "outrageous conduct in the practice of the profession exceeding all bounds usually tolerated by decent society" is replaced with the more precise "failing to demonstrate respect for the sanctity of human remains or for the feelings of individuals involved in the grieving process" as a standard of unprofessional conduct.
16. Sections FDE 3.02(1) and (2) are created to make clear that unprofessional conduct includes violating, or aiding and abetting a violation of, any state or federal law related to the practice of funeral directing or any of the standards of practice set forth in Chapter FDE 2.

17. Section FDE 3.02(12) is created to clearly prohibit direct solicitation by licensees of persons known to be in need of, or in imminent need of, funeral services.
18. Section FDE 3.02(13) is created to clearly identify inappropriate sexual contact with clients, as prohibited by sec. 940.22, Stats., as "unprofessional conduct."
19. Section FDE 3.02(14) is created to clearly prohibit licensees from making unsolicited communications to the board or any board member regarding a matter under investigation by the board.
20. Section FDE 3.02(15) is created to make it unprofessional conduct for a licensee to fail to transfer control over s. 445.125 trust funds pursuant to the depositor's written request made during the lifetime of the potential decedent. Licensees are prohibited from impeding the inter vivos designation of a new beneficiary. If a funeral establishment ceases operation, the permit holder is required to notify all depositors of funds under agreements still in effect with the establishment of the closing of the establishment.
21. Section FDE 3.02(16) is created to require a licensee to notify all depositors of funeral trust agreements upon the closing of a funeral establishment.
22. Section FDE 3.02(17) is created to clearly make it unprofessional conduct for a licensee to fail to cooperate in a timely manner with a board investigation.
23. Chapter FDE 4, dealing with access to public records, is repealed. This subject matter is within the jurisdiction of the department of regulation and licensing, not the funeral directors examining board, and therefore should be governed by the rules of the department, not of the board.

ORDER

Pursuant to authority vested in the Wisconsin funeral directors examining board by ss. 15.08(5)(b), 227.11, 440.035 and 445.03(2)(a), Stats., the Wisconsin funeral directors examining board hereby repeals, amends and adopts rules, interpreting chapter 445, Stats., as follows:

SECTION 1. Chapter FDE 1 (title) is created to read:

Chapter FDE 1
LICENSES AND PERMITS

SECTION 2. FDE 1.01 is created to read:

FDE 1.01 AUTHORITY AND INTENT. This chapter is adopted pursuant to authority of ss. 15.08(5)(b), 227.11 and 445.03, Stats. to clarify and establish licensure criteria for funeral directors and funeral establishments.

SECTION 3. FDE 1.03 is created to read:

FDE 1.03 EXAMINATION GRADE. The examination for a funeral director's license shall consist of two parts, funeral service arts and funeral services sciences. In order to pass the examination a person shall attain a grade of not less than 75 on each of the two parts.

SECTION 4. Chapter FDE 2 (title) is amended to read:

Chapter FDE 2
STANDARDS OF PRACTICE

SECTION 5. FDE 2.01 is renumbered 1.02.

SECTION 6. FDE 1.09 is created to read:

FDE 1.09 PREPARATION ROOMS. (1) Every installation used for embalming operations must contain a floor area of not less than 100 square feet per embalming table and must be used solely for this purpose. It must be isolated by walls or adequate partitions. The walls and furniture must be constructed of material that is easily washed and disinfected. The installation must be equipped with hot and cold running water supply under pressure and in a quantity sufficient for the operations performed therein as well as for cleaning the room. Waste water must flow into the main sewer if available or into an adequate septic tank. Hand washing facilities should be easily accessible.

(2) All preparation rooms in funeral establishments must be equipped with adequate sanitary facilities so that no health hazards are produced as a result of embalming operations performed therein.

(3) All preparation rooms shall be equipped with a ventilating system capable of expelling gases or fumes to the outside at a point so as not to create a nuisance, and shall also be equipped with a hard surfaced, metal or porcelain top embalming table, a set of essential embalming instruments and a supply of disinfectants.

SECTION 7. FDE 2.02 is repealed.

SECTION 8. FDE 2.01 and 2.02 are created to read:

FDE 2.01 AUTHORITY AND INTENT. This chapter is adopted pursuant to authority of ss. 15.08(5)(b), 227.11 and 445.03, Stats. and specifies the minimum standards of operation of funeral establishments and conduct of funeral directors under ch. 445, Stats.

FDE 2.02 DEFINITIONS. As used in this chapter:

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

(2) "Funeral services" means the ceremonies held in conjunction with disposition of the dead, including visitation, religious rites, memorials and graveside services.

(3) "Personal supervision" means immediate availability to continually coordinate, direct and inspect at first hand the practice of another.

(4) "Supervision" means regularly to coordinate, direct and inspect the practice of another.

SECTION 9. FDE 2.03, 2.04 and 2.05 are renumbered 1.04, 1.05 and 1.06 and amended to read:

FDE 1.04 TWO ACADEMIC YEARS OF INSTRUCTION. To meet the requirements of 2 academic years of instruction specified in s. ~~156.045(1)(d)~~ 445.045(1)(d), Stats., an applicant must submit to the board an official transcript of courses from a college or university recognized by the north central association of colleges and secondary schools, showing that the applicant has completed at least the semester credit hours below in the following areas:

	<u>Minimum Semester Credit Hours</u>
(1) English & Speech	6
(2) Social Sciences such as:	12
(a) Psychology	
(b) History	
(c) Sociology	
(d) Political Science	
(e) Economics	
(f) Etc.	
(3) Natural Sciences such as:	15
(a) Anatomy	
(b) Physiology	
(c) Chemistry	
(d) Microbiology	
(e) Biology	
(f) Bacteriology	
(g) Etc.	
(4) Business Studies	13
(5) Electives	<u>14</u>
TOTAL	60

FDE 1.05 MORTUARY SCHOOL. The following shall be accepted as compliance with s. ~~156.045(1)(e)~~ 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 or otherwise deemed to be equivalent by the funeral directors examining board.

FDE 1.06 PROOF OF ACADEMIC TRAINING. The following shall be accepted by the board as proof that the academic training requirements of s. ~~156.095(1)(a)~~ 445.095(1)(a), Stats., concerning registration as an apprentice funeral director have been met: A signed statement by the registrar of any college or university recognized by the north central association of colleges and secondary schools that the applicant has successfully completed one academic year of instruction in the college or university or has an equivalent education which will permit admission to the college or university with sophomore status.

SECTION 10. FDE 2.03 is created to read:

FDE 2.03 OPERATION OF A FUNERAL ESTABLISHMENT. Even though persons other than licensed funeral directors may own a funeral establishment:

(1) Funeral arrangements may be made only by licensed funeral directors; and

(2) Any other dealings on behalf of the establishment, including the conducting of funeral services, shall be performed only by or under the supervision of licensed funeral directors.

SECTION 11. FDE 2.06 is renumbered 2.04 and amended to read:

FDE 2.04 DISCRIMINATION. No funeral director ~~or-embalmer~~ licensed in Wisconsin, or apprentice funeral director ~~or-apprentice-embalmer~~ holding a certificate of apprenticeship in this state, or person holding a funeral establishment permit herein, shall deny services or the use of establishment to any person because of race, color, creed, national origin or ancestry; provided, however, that this rule shall not apply ~~to-any-funeral-establishment,-or-to-any-services-rendered-therein,-or-in-connection-there-with,~~ where such a funeral establishment is, for religious reasons, so operated that its services are provided to members of only one religious faith.

SECTION 12. FDE 2.06 is created to read:

FDE 2.06 SUPERVISION OF APPRENTICES. (1) Apprentices may engage in the following activities only when under the personal supervision of a licensed funeral director: embalming and other preparing of dead human bodies for burial or transportation, and making funeral arrangements.

(2) Apprentices may conduct funeral services or make removals of bodies under the supervision of a licensed funeral director.

SECTION 13. FDE 2.07 and 2.08 are repealed.

SECTION 14. FDE 2.07(2) is created to read:

FDE 2.07(2) Whenever any apprentice leaves his or her apprenticeship at a funeral establishment, the funeral director and apprentice shall within 5 days notify in writing the funeral directors examining board, giving the name and address of the apprentice and date of the apprentice leaving the apprenticeship.

SECTION 15. FDE 2.08(2) is created to read:

FDE 2.08(2) If a funeral director offers package funerals, the funeral director shall provide the consumer with a comparison between the package price and the total cost, calculated on an itemized basis, of the components actually desired by the consumer.

SECTION 16. FDE 2.09 is repealed.

SECTION 17. FDE 2.10(1) to (3) are renumbered FDE 1.08(1) to (3).

SECTION 18. FDE 2.10(4) is repealed.

SECTION 19. FDE 2.10 is created to read:

FDE 2.10 SANITATION. (1) All preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in a clean and sanitary condition.

(2) In the performance of embalming, staff shall wear protective smocks or aprons and rubber gloves. These articles must be disinfected or disposed of after each operation.

(3) The following precautionary procedures shall be used by funeral directors in the transportation, preparation, embalming and disposition of suspected or known high risk infectious cases:

(a) Confidentiality. All personnel involved in the post-mortem care of the deceased shall be informed of the confidentiality provisions of s. 146.025, Stats. and the consequences of violating these confidentiality provisions.

(b) Protocols and procedures for disposal of infectious waste. Each funeral establishment shall establish and post, in a place conspicuous to personnel, facility protocols and procedures for the disposal of all infectious waste, and specifically for the post-mortem preparation of known or potential carriers of high risk infections including identification, transportation and handling of the body, disinfection, cleanup and disposal of wastes and contaminated materials.

(c) Disinfectants. Licensees shall use an effective disinfectant.

NOTE: Disinfectants which have been shown to be effective against the human immunodeficiency virus (HIV) include: 1. Ethyl or isopropyl alcohol (70 percent), 2. Phenolic germicidal detergent in a 1 percent aqueous solution, 3. Sodium hypochlorite with at least 100 ppm available chlorine (1 part household bleach to 9 parts water, needs to be freshly prepared each time it is used), 4. Hydrogen peroxide (3 percent solution), 5. Quaternary ammonium germicidal detergent in 2 percent aqueous solution, 6. Iodophor germicidal detergent with 500 ppm available iodine, 7. Heat (130° F for 10 minutes).

(d) Label. Bodies with positive test results for a high risk infectious condition shall be labeled "Blood/Body Fluid Precautions" so that establishment personnel may take appropriate infection control precautions. The label shall remain with the body until the embalming process is completed.

(e) Body removal and transportation.

1. Any abrasions, lesions or wounds that a funeral director has shall be covered prior to removal, transportation or embalming.
2. The body shall be covered with a disposable sheet and then placed in a disposable pouch or bag for removal and transportation to the preparation room. If exposure to body fluids is anticipated, the funeral director and his/her assistant should wear fully protective, disposable apparel during this process. In addition, protective eyewear should be worn if aerosolization of body fluids is anticipated.
3. If the deceased person's body fluids are not contained in the body bag during transportation, the removal vehicle shall be washed with soap and water and disinfected with an effective disinfectant.
4. The body bag and all disposable protective garments and gloves used in removal and transport shall be incinerated on the premises or double bagged, labeled as containing infectious waste and disposed of in accordance with procedures for disposal of other infectious waste, after the body has reached the funeral establishment.
5. Persons assisting in the removal or transport of the body shall wash their hands thoroughly after handling the body and disposing of the protective garments and gloves.

(f) Embalming.

1. The funeral personnel involved in the embalming process shall wear double gloves, protective oral nasal masks, protective eye wear, a disposable waterproof apron over a disposable gown or suit, head covering, and shoe coverings.
2. The arterial chemical used shall have at least a thirty (30) formaldehyde index.

NOTE: Fluid distribution is especially important when embalming the body of an HIV infected individual and can be facilitated by the following: intermittent drainage with positive control over vascular pressure, multipoint injection sites, massaging areas of poor distribution, and careful fluid selection.

3. The funeral director performing embalming shall take all necessary precautions to avoid a puncture wound or cut by a needle, scalpel, or exposed rib edges of an autopsied body; if such a wound does occur, the embalmer should stop and implement normal disinfection techniques.

(g) Disposal, cleaning and disinfection.

1. Walls, floor, table, counters, sink, hose, viscera pails, embalming machines and all other contaminated surfaces shall be disinfected. Before disinfecting these surfaces they should be rinsed thoroughly with soap and water to remove as much of the formalin and organic matter as possible. Disposable items should be incinerated or disposed of in accordance with the funeral establishment's policies for disposal of infectious waste.
2. Needles, syringes and other instruments used in the embalming process shall be immersed in an effective disinfectant solution after mechanical scrubbing to remove all debris. Extraordinary care shall be taken to avoid accidental wounds from needles and other sharp instruments: Reusable needles shall not be recapped since accidental needle puncture may occur. Where disposable needles are used, the use of needle cutting devices is not recommended. Parenteral injections and incisions shall be planned to keep these procedures at a minimum.
3. Soiled clothing, linens and other laundry shall be bagged, appropriately labeled, and processed according to the funeral home's existing protocols regarding "Blood/Body Fluid Precautions."

4. All personnel involved in post-mortem preparation and embalming shall thoroughly wash their hands for at least 10 seconds following completion of activities and removal of protective clothing, and before leaving the preparation room.

NOTE: In cases of HIV infection, after the body has been prepared in accordance with sec. HSS 136.04, Wis. Adm. Code, 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 20. FDE 2.11 is repealed.

SECTION 21. FDE 2.12 is renumbered 2.09.

SECTION 22. FDE 2.13 is renumbered 2.07(1) and amended to read:

FDE 2.07 CHANGES IN APPRENTICESHIP ASSIGNMENT. (1) Whenever any licensed funeral director ~~or embalmer~~ discharges an apprentice ~~he the funeral director~~ shall within 5 days notify in writing the funeral directors ~~and embalmers~~ examining board, giving the name and address of the apprentice, and the date of discharge.

SECTION 23. FDE 2.135 is renumbered 1.07.

SECTION 24. FDE 2.14 is renumbered 1.10.

SECTION 25. FDE 2.15(3) is renumbered 2.08(1) and amended to read:

FDE 2.08 BUSINESS PRACTICES. (1) Each funeral establishment ~~should~~ shall offer a broad range of personal services, caskets, merchandise, and prices consistent with the needs and desires of the families in the community. Records documenting ~~the method or methods used in determining~~ these needs and desires shall be available for review by the board ~~and consumer.~~

SECTION 26. FDE 2.15(1), (2), (4), (5) and (6) are repealed.

SECTION 27. FDE 2.16 is renumbered 2.05 and amended to read:

FDE 2.05 BUSINESS TELEPHONE LISTINGS AND ADVERTISING. (1) Each funeral establishment shall insure that only true funeral establishment names and addresses as registered with the funeral directors ~~and embalmers~~ examining board shall appear in telephone listings or other publications and in advertising by any media whatsoever. ~~However, different sequences of individual names which comprise the true establishment name may be used.~~ A funeral establishment may list under a previous establishment name in a telephone or business directory, provided that the listing contains a reference to the establishment name currently registered with the board.

(2) If the names or pictures of unlicensed persons are used in any form of advertising for a funeral establishment, the advertisement must distinguish between the Wisconsin licensed funeral director ~~and embalmer~~ and the non-licensed personnel.

SECTION 28. FDE 2.17 is renumbered 2.11 and amended to read:

FDE 2.11 RADIOACTIVE MATERIALS. A funeral director who takes possession of a dead human body which might possibly contain radioisotope must take all necessary steps to protect the members of the staff who are called upon to handle the body, ~~and must take necessary measures to eliminate any radioactive source. The funeral director must insure that every known source of radioactivity is removed from a body before final disposition.~~

SECTION 29. FDE 2.18 is renumbered 2.12.

SECTION 30. Chapter FDE 3 (title) is amended to read:

Chapter FDE 3
RULES OF CONDUCT

SECTION 31. FDE 3.01 (intro.) is renumbered 3.02 (intro.) and amended to read:

FDE 3.02 UNPROFESSIONAL CONDUCT. Any occurrence of the following shall constitute unprofessional conduct by a licensed funeral director, ~~embalmer or~~ registered apprentice funeral director or owner of a funeral establishment: i

SECTION 32. FDE 3.01(1) is renumbered 3.02(3) and amended to read:

FDE 3.02(3) Giving misleading or deceptive information to family or persons involved in the arranging of a funeral of final disposition including, but not limited to, information on: funeral costs, burial agreements, legal requirements ~~and~~ or religious propriety.

SECTION 33. FDE 3.01(2) is repealed.

SECTION 34. FDE 3.01(3), (4) and (5) are renumbered 3.02(4), (5) and (6) and amended to read:

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

(5) ~~Refusal~~ Refusing to comply with a duly authorized request for information by the board in a timely manner, or falsifying records of any kind which are made public or requested by the board. There is a rebuttable presumption that a person who takes more than 30 days to provide information requested by the board has not acted in a timely manner.

(6) ~~Gross negligence in properly providing~~ Providing and performing the services of funeral directing or embalming ~~for which the individual is duly licensed in a manner which falls below minimal standards established by statute, rule or practice in the profession.~~

SECTION 35. FDE 3.01(6) is renumbered 3.02(7).

SECTION 36. FDE 3.01(7) and 3.01(10) are repealed.

SECTION 37. FDE 3.02(8) is created to read:

(8) Performing services or providing merchandise not authorized for which charges are made; unless authorization for such items as removal or preparation of remains was not obtained because next of kin or other person responsible for payment of charges could not be located within a reasonable time.

SECTION 38. FDE 3.01(8) is renumbered 3.02(9) and amended to read:

(9) ~~Misrepresentation or fraud~~ Engaging in misleading or deceptive conduct in the conduct of business or the profession ~~of any licensee.~~

SECTION 39. FDE 3.01(9) is repealed, recreated and renumbered as 3.02(10) to read.

FDE 3.02(10) Failing to demonstrate respect for the sanctity of human remains or for the feelings of individuals involved in the grieving process.

SECTION 40. FDE 3.01(11) is renumbered 3.02(11).

SECTION 41. FDE 3.01 is created to read:

FDE 3.01 AUTHORITY AND INTENT. This chapter is promulgated under the authority of ss. 15.08(5)(b), 227.11 and 445.03, Stats., to interpret and contribute to the implementation of s. 445.13 relating to grounds for discipline of funeral directors, funeral director apprentices and holders of funeral establishment permits.

SECTION 42. FDE 3.02(1), (2), (12), (13), (14), (15) and (16) are created to read:

FDE 3.02(1) Violating or aiding and abetting a violation of any state or federal law substantially related to the practice of funeral directing.

(2) Violating any of the standards of practice set forth in ch. FDE 2.

(12) Engaging in solicitation. A funeral director may not initiate written communication, personal or telephone contact for the purpose of obtaining professional employment with persons known to be in need of such services, or where the need of funeral services is imminent.

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

(14) Engaging in unsolicited communications to the board or any board member regarding a matter under investigation by the board. Nothing in this section shall prohibit a licensee from addressing communication on a matter under investigation to the division of enforcement or other appropriate department personnel.

(15) Failing to transfer control over s. 445.125 trust funds pursuant to the depositor's written request made during the lifetime of the potential decedent. Burial trust funds are not the property of the funeral director named as beneficiary under the trust agreement. A funeral director may not impede the inter vivos designation of a different beneficiary by withholding delivery of a passbook or other indicia of control over the funds, or by other behavior.

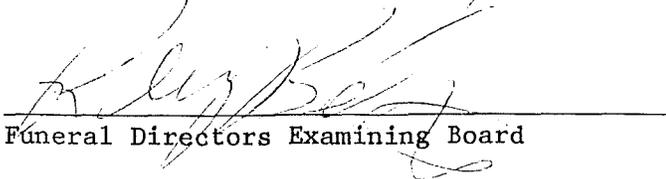
(16) Failure by the holder of a funeral establishment permit, upon the closing of the funeral establishment, to notify all depositors of funeral trust agreements of the closing of the establishment. Notification shall be in writing and shall be mailed or personally delivered to the depositor or the depositor's representative within 15 days of the date that the establishment ceases its operation.

SECTION 43. Chapter FDE 4 is repealed.

SECTION 44. Chapter FDE 5 is renumbered FDE 4.

The rules repealed, amended or 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 this 25th day of MAY, 1988.

By: 
Funeral Directors Examining Board

JOH:gad
RULES-27
5/19/88