

Clearinghouse Rule 22-088

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

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

PROPOSED ORDER

An order of the Funeral Directors Examining Board to renumber FD 1.013 (1), and to create FD 1.013 (1c) and (2m), 1.065 (3) and (note), and 1.070 and (note) relating to apprenticeship and renewal.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: ss. 445.06, 445.07, 445.095, and 445.10, Stats.

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

Explanation of agency authority:

Section 15.08 (5) (b), Stats. provides “[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. provides “[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., provides that “[t]he examining board may make and enforce rules ... 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 [and] conduct a school of instruction to apprise funeral directors of the most recent scientific knowledge and developments affecting their profession...”

Related statute or rule:

None.

Plain language analysis:

The Funeral Directors Examining Board is updating the rules governing their practice based upon updated statute modifications which reflected process clarifications requirements for renewal, terms of apprenticeships, and renewal of funeral director and apprentice licenses. This revision also includes a comprehensive review that improves usability and conformity with current state statute, industry practice, and rule drafting standards.

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

None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

N/A

Comparison with rules in adjacent states:

Illinois:

Illinois states as one of the requirements for the funeral director and embalmer license that an applicant completes a twelve-month internship within the past 5 years, for which an intern license needs to be issued. The requirements for the intern license include proof of mortuary science education and a signed certification of acceptance for an internship by an actively licensed funeral director and embalmer in good standing. [IL Admin. Code 1250.120].

During the internship, the intern needs to submit 12 case reports every 3 months. Upon completion of the internship, the sponsor must complete a report stating that the intern has satisfactorily completed the requirements. The intern license may only be renewed twice. [IL Admin. Code 1250.130]

Illinois does not have a special criterion for regular license renewals. [IL Admin. Code 1250.200]

Iowa:

In order to obtain a license to practice mortuary science in Iowa, an applicant must have completed a one-year internship under the direct supervision of a preceptor. If the internship is interrupted, it must be completed within 24 months of the date it commenced. Extension of an internship will be evaluated by the board depending on the length of time that has lapsed since the beginning of the internship and the experience attained by the intern. The preceptor must present two reports to the board: the first after

six months of the start date of the internship, and the second at the end of the internship. Additionally, the intern must present to the board a report upon completion of the internship. [625 IAC 101.3 (1) and (2)]

Iowa only requires completion of continuing education to renew funeral director licenses. [645 IAC 101.7 (3)]

Michigan:

Michigan requires completion of one year of resident training before conferring full licensure to practice mortuary science. Up to 6 months of resident training may be waived if the applicant has completed a bachelor's degree from an accredited college or university. [MI Admin. Code R 339.18921 (2)]

A resident trainee must notify the department of any changes in supervisor or training location. The resident trainee license may only be renewed twice. [MI Admin. Code R 330.18923 (2) and (4)]

In order to receive credit for the resident training, the trainee must submit a report to the department stating that a minimum of 5 embalmings must be performed during the previous 6 months. [MI Admin. Code R 339.18927 (1)]

Michigan does not have a special criterion for regular license renewals.

Minnesota:

Minnesota requires applicants who are pursuing a license in mortuary science to complete a registered internship under the direct supervision of an individual who is currently licensed to practice mortuary science. The internship shall be a minimum of 2,080 hours within a three-year period unless 520 hours are waived upon completion of a practicum in mortuary science through the program of mortuary science of the University of Minnesota or an approved similar program. Any changes in the internship registration must be reported immediately to the commissioner. Registration must be renewed annually if the exceed one calendar year. [Minn. Stats. 149A.20 Sub. 6]

Minnesota does not have a special criterion for regular license renewals.

Summary of factual data and analytical methodologies:

The proposed rules were developed by reviewing the provisions of FD 1, as modified by changes in State Statute. The updated provisions were reviewed in conjunction with current rules relating to the updated State of Wisconsin funeral director reporting and renewal process, as well as clarification of apprenticeship guidelines. The Board provided necessary input and feedback to establish any additional language changes or updates needed in addition to those enacted by state statute. The proposed rules were developed by obtaining input and feedback from the Medical Examining Board.

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

This rule will be posted for economic comments for 14 days.

Fiscal Estimate and Economic Impact Analysis:

The proposed rules will be posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals.

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, Jennifer Garrett, may be contacted at (608) 266-6795 and by email at Jennifer.Garrett@wisconsin.gov.

Agency contact person:

Dana Denny, Administrative Rules Coordinator, Department of Safety and Professional Services, DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Dana Denny, 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.

TEXT OF RULE

SECTION 1. FD 1.013 (1) is renumbered FD 1.013 (1g)

SECTION 2. FD 1.013 (1c) and (2m) are created to read:

FD 1.013 (1c) "Apprentice" means a person as defined in s. 445.01 (2), Stats.

(2m) "Funeral establishment" means an establishment as defined in s. 445.01 (6), Stats.

SECTION 3. FD 1.065 (3) and (note) are created to read:

FD 1.065 (3) Whenever an apprentice transfers from one licensed funeral director to another during their apprenticeship, the apprentice and the supervising funeral director shall abide by the procedures outlined under s. 445.095 (3r), Stats.

Note: s. 445.095 (3r) reads: “When an apprentice enters the employment of a licensed funeral director, the apprentice shall immediately notify the examining board, giving the name and place of business of the funeral director whose service the apprentice has entered. If, at any time thereafter, the apprentice leaves the employment of the licensed funeral director whose service the apprentice has entered, the licensed funeral director shall give the apprentice an affidavit showing the length of time served as an apprentice with that employer, and the work done in detail, which affidavit shall be filed with the examining board and made a matter of record in that office. If the apprentice thereafter enters the employment of another licensed funeral director in this state, the applicant shall forthwith report such employment to the examining board. No person may serve or attempt to serve as an apprentice under a funeral director until the person has notified the examining board as required under this subsection.”

SECTION 4. FD 1.070 and (note) are created to read:

FD 1.070 Semiannual apprentice reporting requirements. All apprentices shall provide semiannual reports to the examining board as required by s. 445.095 (3g).

Note: s. 445.095 (3g), Stats. reads “All apprentices registered under this section shall report at least semiannually to the examining board upon forms provided by the department. Failure to submit the required reports shall constitute grounds for termination of the apprenticeship. The semiannual report shall show the number of hours served by the apprentice, the number of bodies the apprentice has assisted in embalming or otherwise prepared for burial or disposition during such period, and the number of funeral services at which the apprentice has assisted, and give any other information required by the examining board. The data contained in the report shall be certified to as correct by the licensed funeral director under whom the apprentice has served during that period.”

SECTION 5. 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)
