

Report From Agency

**STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD**

**IN THE MATTER OF RULEMAKING :
PROCEEDINGS BEFORE THE : REPORT TO THE LEGISLATURE
FUNERAL DIRECTORS : CR 19-163
EXAMINING BOARD :**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

N/A.

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

This rule project renumbers several definitions to place them within s. FD 1.013, making clear that the definitions apply throughout chs. FD 1 to 4 and 6. Section FD 1.055 is also revised to clarify that the 16-hour certification course for apprentices must be completed in-person.

The rule project revises s. FD 1.075 to clarify that apprentices may only embalm a dead human body, conduct funeral services, and make funeral arrangements while under the personal supervision of a licensed funeral director, and may only make removals of dead human bodies and other preparations of a dead human body for burial, not including embalming, while under the supervision of a licensed funeral director.

Section FD 2.03 is revised to reflect that making funeral arrangements, embalming, and conducting funeral services may only be performed by a licensed funeral director or an apprentice under the personal supervision of a licensed funeral director. Additionally, s. FD 2.03 is amended to provide that only a licensed funeral director, or an apprentice under the supervision of a licensed funeral director, may make removals of dead human bodies or make other preparations of a dead human body for burial, not including embalming.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD’S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

The Funeral Directors Examining Board held a public hearing on January 22, 2020. No testimony was received.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2. b.: In s. FD 1.075 (2) (b) and 2.03 (1r) (b), replace “Other preparation” with “Preparing” to achieve a form consistent with the other subunits.

Response: “Other preparation” is a term of art used within the funeral director profession to refer to tasks other than embalming, or in the alternative to embalming, that are necessary to prepare a body for burial; as opposed to cosmetic work done in preparation for visitation of the body. The terminology “other preparation” is also used in the FTC’s funeral director rule to refer to these tasks. Replacing this term with “preparing” could create confusion among the users of the FD code. Therefore, the board rejects this comment.

Comment 2. c.: In s. FD 1.075 (2) (c), consider inserting “funeral” prior to “services” so as to use the defined term that, under the changes in SECTION 8, will apply to all administrative code chapters governing funeral directors. Note that while the new definition of “funeral services” under SECTION 8 requires that a body be present, s. FD 1.075 (2) (c) would only authorize an apprentice to conduct funeral services under supervision when a body is not present.

Response: In order to be considered a “funeral service” under the proposed rule, a dead human body must be present. The board believes it would be contradictory to refer to a service where a dead human body is not present as a “funeral service.” Therefore, the board rejects this comment.

Comment 2. e.: In s. FD 1.03 (1r), the board should consider creating an additional paragraph similar to s. FD 1.075 (2) (c) that specifies that a funeral director apprentice may conduct services where a dead human body is not present when under the supervision of a licensed funeral director. As drafted, the two provisions appear inconsistent.

Response: It is specified in FD 1.075, the section of the rules specifically enumerating the tasks an apprentice may perform, that a funeral director apprentice may conduct services where a dead human body is not present when under the supervision of a licensed funeral director. Adding an identical provision in FD 2.03 would be redundant. Further, FD 2.03 (2) already provides that “any other dealings on behalf of the establishment” must be performed under the supervision of a licensed funeral director. This would include performing services where a dead human body is not present. Therefore, the board rejects this comment.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A.