

STATEMENT OF SCOPE

Funeral Directors Examining Board

Rule No.: FD 1 and 4

Relating to: Education requirements for licensure and continuing education requirements

Rule Type: Both Permanent and Emergency

1. Finding/nature of emergency:

2019 Wisconsin Act 137 section 8 provides:

“(1) The funeral directors examining board may promulgate emergency rules under s. 227.24 necessary to implement this act. Notwithstanding s. 227.24 (1) (c) and (2), emergency rules promulgated under this subsection remain in effect until May 1, 2022, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a) and (3), the examining board is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

2. Detailed description of the objective of the proposed rule:

The purpose of this rule project is to review and revise the FD chapters to bring them into conformity with 2019 Wisconsin Act 137, and to revise the FD chapters to improve usability and to ensure they conform with current drafting standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2019 Wisconsin Act 137 changed the requirement that an applicant for a funeral director license must have 2 years of college education, instead requiring at least 24 college credits in a course of study approved by the board.

Act 137 also eliminates the requirement that the 16-hour course for certification as an apprentice must be completed prior to the 9-month mortuary science program. Act 137 would allow apprenticeship applicants to either complete the 16-hour certification course, or the 9-month mortuary science program prior to certification. Applicants who have completed the mortuary science program would be able to forego the 16-hour certification course.

Finally, Act 137 requires for the first renewal date after the Board has initially granted the license that the funeral director must have completed at least four hours of continuing education. The Board is to specify permitted or required subjects for the four hours of continuing education application for the first renewal, which must be subjects that the Board determines prepare a new licensee for practice as a funeral director.

The alternative to this rule project would be to not update the administrative rules to bring them into conformity with 2019 Wisconsin Act 137, which would result in a lack of clarity for stakeholders as to what the applicable requirements are for a funeral director apprenticeship or license.

4. Detailed explanation of statutory authority for the rule:

2019 Wisconsin Act 137 requires the Board to adopt rules regarding permissible or required content for the four hours of continuing education required of licensees in the first renewal period following initial licensure. Act 137 also gives the Board authority to promulgate emergency rules to implement the act without providing evidence that the rule is necessary for the preservation of the public peace, health, safety, or welfare.

Section 15.08 (5) (b), Stats., “[e]ach examining board...[s]hall 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., “[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., “[t]he examining board may: (a) 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 examining and licensing of funeral directors and the registration of apprentices.”

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule:

Individuals licensed in Wisconsin as funeral directors, funeral director apprentices, and those seeking licensure as funeral directors or funeral director apprentices.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule: None.

8. Anticipated economic impact of implementing the rule:

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

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Approved for Publication:

Board Chair

Date Submitted