CHAPTER 445
FUNERAL DIRECTORS

445.01 Definitions.  
445.03 Powers of examining board.  
445.04 Funeral directors; licenses.  
445.045 License requirements.  
445.06 Renewal of licenses.  
445.08 Reciprocity in issuance of licenses.  
445.09 Display of licenses.  
445.095 Apprenticeship, funeral directors.  
445.10 Term of apprenticeship.  
445.105 Funeral establishment permits.  
445.11 Register; change of address.  
445.12 Prohibited practices.  
445.125 Burial agreements.  
445.13 Investigations; hearing; revocation of licenses.  
445.14 Funeral directors; who to employ.  
445.145 Printed advertising.  
445.15 Penalties.  
445.16 Exceptions.

Cross-reference: See definitions in s. 440.01.

445.01 Definitions.  As used in this chapter:
(2) “Apprentice” means a person engaged in the learning of the practice of funeral directing under the instruction and personal supervision of a funeral director who is licensed under this chapter and whose funeral establishment is located in this state.
(2m) “Compensation” means direct or indirect payment, including the expectation of payment whether or not actually received.
(3) “Embalming” means disinfecting or preserving dead human bodies, entirely or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injection, or by direct application into the organs or cavities for the purpose of preservation or disinfection.
(4) “Examining board” means the funeral directors examining board.
(5) A “funeral director” means any of the following:
(a) A person engaged in or conducting, or holding himself or herself out, in whole or in part, as being engaged in any of the following:
1. Embalming or otherwise preparing for the burial or disposal of dead human bodies.
2. Directing and supervising the burial or disposal of dead human bodies.
(c) A person who, in connection with his or her name or funeral establishment, uses the words, “funeral director”, “mortician” or any other title implying that he or she is engaged as a funeral director as defined in this subsection.
(6) “Funeral establishment” means any building or part of a building used and held out to the public as being used for caring or transporting of dead human bodies, or for holding or conducting of funeral services.
(7) “Operator of funeral establishment” means any person who conducts, maintains, manages or operates a funeral establishment.
(8) “Person” includes firm, corporation, partnership, cooperative, unincorporated cooperative association, and association of individuals.
(9) “Preparation room” means any building or part of a building used for embalming, caring for, or preparing for burial or transportation of dead human bodies.

History: 1975 c. 39 ss. 646m, 649, 649g, 732 (2); 1975 c. 199; 1977 c. 272 s. 98; 1979 c. 175 ss. 28, 30, 53; 1979 c. 221 ss. 660, 2202 (45); Stats. 1979 s. 445.01; 1981 c. 20; 1983 a. 189, 485; 1983 a. 189; 1983 a. 84; 1983 a. 100; 2005 a. 266, 441; 2017 a. 304.

445.03 Powers of examining board.  (1) The examining board shall:
(a) Enforce this chapter.
(b) Make and enforce rules necessary for the administration of subch. I of ch. 157.

(2) The 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 examination and licensing of funeral directors and the registration of apprentices.
(b) Grant licenses to funeral directors, certificates of registration to apprentices, and permits to operators of funeral establishments.
(c) Conduct a school of instruction to apprise funeral directors of the most recent scientific knowledge and developments affecting their profession. Qualified lecturers and demonstrators shall be employed for this purpose, who may be selected without regard to the civil service law.
(d) Make and determine reciprocal agreements with other states.

History: 1971 c. 301; 1975 c. 39 ss. 650, 651, 732 (2); 1979 c. 175 s. 29; 1979 c. 221 s. 665; Stats. 1979 s. 445.03; 1981 c. 20, 162; 1983 a. 485; 1985 a. 316 s. 25.

Rules authorized under sub. (2) (a) should be enacted under ch. 227. 63 Atty. Gen. 154.

445.04 Funeral directors; licenses.  (1) Except for conducting funeral services, the business of a funeral director must be conducted in a funeral establishment that has been issued a permit by the examining board.
(2) Except as provided in s. 257.03, no person may engage in the business of a funeral director, or make a representation as engaged in such business, in whole or in part, unless first licensed as a funeral director by the examining board. Application for a license, other than a renewal, shall be in writing and verified on a form to be furnished by the department. The application must specify the address at which the applicant proposes to conduct the business of a funeral director and shall contain such other information as the examining board requires to determine compliance with the requirements of this chapter. Accompanying the application shall be the initial credential fee determined by the department under s. 440.03 (9) (a), together with affidavits of recommendation from at least 2 persons of the county in which the applicant resides or proposes to conduct the business of a funeral director.
(3) (a) Written examinations for a funeral director’s license under pars. (b) and (c) shall be held at least once a year and shall be conducted by the examining board at a time and place to be designated by the examining board.
(b) The comprehensive examination shall include the subjects of:
1. Funeral directing and burial or other disposition of dead human bodies;
2. Anatomy, bacteriology, autopsy, chemistry and practical embalming; and
3. Sanitary science, public health, transportation, business ethics and the laws of this state and rules of the department of
health services relating to communicable diseases, quarantine and causes of death.

(c) The jurisprudence examination shall test the applicant's knowledge of state law relating to funeral directing.

History: 1971 c. 301; 1975 c. 39 ss. 653, 732 (2); 1975 c. 199; 1977 c. 29, 418; 1979 c. 175 s. 29; 1979 c. 221 s. 661; Stats. 1979 s. 445.04; 1981 c. 162, 380; 1993 a. 485; 1991 a. 39; 1995 a. 27 s. 9126 (19); 2005 a. 266; 2007 a. 20 ss. 3514, 9121 (6) (a); 2009 a. 42; 2017 a. 331.

Cross-reference: See also chs. DHS 135 and 136, Wis. adm. code.

445.045 License requirements. (1) To be eligible for an original funeral director’s license, a person must meet all of the following requirements:

(a) The person must be at least 18 years of age.

(b) Subject to ss. 111.321, 111.322 and 111.335, the person must not have an arrest or conviction record.

(d) The person must have completed 2 academic years of instruction in a recognized college or university, in a course of study approved by the examining board, or have equivalent education.

(e) The person must have satisfactorily completed 9 months or more instruction in a prescribed course in mortuary science approved by the examining board at any time after having completed an approved certification class described in s. 445.095 (1) (a) or (f).

(f) The person must have completed one year of apprenticeship as prescribed in s. 445.095 at any time after having completed an approved certification class described in s. 445.095 (1) (a) and either before or after taking the course in mortuary science required by par. (e) and must have satisfied the requirement under s. 445.095 (4).

(g) The person must have successfully passed a comprehensive examination under s. 445.04 (3) (b) and a jurisprudence examination under s. 445.04 (3) (c).

(2) The eligibility requirements in sub. (1) shall not apply to:

(a) Any person to whom a certificate of apprenticeship was issued before October 1, 1959, and who satisfies the legal requirements in effect at the time of the person's registration; or

(b) Any person who served actively in the armed forces of the United States between August 3, 1951, and October 1, 1959, and who was discharged under conditions other than dishonorable, registers with the examining board within 6 months of the date of discharge, and who satisfies the legal requirements in effect at the time the person entered the armed forces.


Cross-reference: See also chs. FD 1 and 4, Wis. adm. code.

445.06 Renewal of licenses. The renewal date for a funeral director’s license is specified under s. 440.08 (2) (a), and the renewal fee for such license is determined by the department under s. 440.03 (9) (a). Before any renewal license is delivered to any licensed funeral director, proof must be furnished by the applicant, to the satisfaction of the examining board, that the applicant is doing business at a recognized funeral establishment. The applicant must also furnish proof of completion of at least 15 hours of continuing education during the previous 2-year licensure period, except that new licensees are exempt from this requirement during the time between initial licensure and commencement of a full 2-year licensure period.

History: 1975 c. 39 s. 732 (2); 1975 c. 199; 1977 c. 29; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.06; 1983 a. 485; 1985 a. 29; 1991 a. 39; 1995 a. 27 s. 9126 (19); 2011 a. 146.

Cross-reference: See also chs. FD 1 and 4, Wis. adm. code.

445.08 Reciprocity in issuance of licenses. Any person holding a valid license as a funeral director or embalmer in another state having requirements substantially equal to those in this state for a funeral director’s license may apply for a license to practice in this state by filing with the examining board a certified statement from an authorized official of that state that verifies the person’s licensure in that state. An applicant for licensure under this section shall pass the jurisprudence examination under s. 445.04 (3) (c) and shall satisfy the requirement under s. 445.045 (1) (b). Thereupon the examining board may, upon the payment of the required fee, issue a funeral director’s license.

History: 1971 c. 213 s. 5; 1971 c. 301; 1975 c. 39 ss. 656, 657, 732 (2); 1975 c. 199; 1977 c. 29; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.06; 1981 c. 386; 1981 c. 391 s. 211; 1983 a. 485; 1997 a. 27; 2001 a. 107; 2003 a. 321 s. 116; 2017 a. 331.

Cross-reference: See also ch. FD 1.12, Wis. adm. code.

445.09 Display of licenses. Funeral director’s licenses and certificates of apprenticeship shall be displayed conspicuously in the place of business conducted by the licensee or where the licensee or apprentice is employed.

History: 1979 c. 175 s. 29; 1979 c. 223 s. 662; Stats. 1979 s. 445.09; 1983 a. 485.

445.095 Apprenticeship, funeral directors. (1) A person desiring to become an apprentice as a funeral director shall apply on a form provided for the purpose and appear before the examining board, or any duly appointed representative of the examining board. The application shall state that the applicant is 18 years of age or older, holds a high school diploma or possesses equivalent education as defined by the examining board, does not have an arrest or conviction record, subject to ss. 111.321, 111.322, and 111.335, and has completed a 16-hour certification class approved by the examining board. The application must be signed or accompanied by the oath of the applicant and be accompanied by the fee specified in s. 440.05 (6). When the examining board is satisfied as to the qualification of an applicant for apprenticeship, it shall issue a certificate of apprenticeship. When the 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.

(b) All apprentices under this chapter shall be paid at least the minimum wage in effect in this state.

(c) A certificate of apprenticeship issued under this section shall be renewable annually upon the payment on January 1 of each year of the renewal fee specified in s. 440.08 (2) (b).

(d) All apprentices registered under this section shall report at least semiannually to the examining board upon forms provided by the examining board. The reports shall contain the information required by the examining board. Failure to submit the required reports shall constitute justification for termination of the apprenticeship.

(e) The semiannual report must show the number of hours served by the apprentice and the number of bodies the apprentice has assisted in embalming, or otherwise prepared for burial or disposition during such period, the number of funeral services at which the apprentice has assisted, and give such other information as may be 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 such period.

(2) (a) 1. Except as provided in subd. 2., the examining board may recognize only one funeral director apprenticeship at a funeral establishment in a given year for each funeral director that is employed full time at the funeral establishment.

2. The examining board may recognize up to 2 funeral director apprenticeships at any funeral establishment at which less than 3 funeral directors are employed full time in a given year.
(b) The term of a registered apprentice shall be recognized only when the apprentice is employed in a funeral establishment under the personal supervision of a licensed funeral director. For purposes of this paragraph, supervision, when the apprentice is in the preparation room, requires that the apprentice is within the funeral director’s line of sight.

(3) All apprentices shall be governed by subch. I of ch. 106 and apprenticeship rules of the department of workforce development.

(4) Before an apprentice is eligible to receive a funeral director’s license, the apprentice shall present, in connection with the other evidence required by this chapter, affidavits from the several licensed funeral directors under whom the apprentice has worked, showing that the apprentice has, during the term of his or her apprenticeship, assisted in embalming for burial or shipment at least 25 bodies, has assisted in preparing 25 dead human bodies for burial or transportation, other than by embalming, and has assisted in at least 25 funeral services during the apprenticeship.

(5) No person may serve or attempt to serve as an apprentice under a funeral director until the person has filed registration thereof with the examining board.


Cross-reference: See also chs. FD 1 and 2, Wis. adm. code.

445.10 Term of apprenticeship. (1) The term of an apprenticeship for a funeral director shall begin on the date of registration and shall continue for a period of not more than 4 years from the time of first registration unless an extension, not to exceed one additional year, is granted by the examining board.

If the apprentice again completes an approved certification class described in s. 445.095 (1) (a). If the apprentice again completes such a certification class, an additional 4-year period, subject to extension, shall begin as provided in this subsection. An apprenticeship not continued as provided in this subsection shall terminate. The provisions of this subsection shall be suspended while a registered apprentice is an active member of the military of the United States.

(2) In all applications of apprentices for licenses as funeral directors under this chapter, the eligibility of the applicant to take the examination shall be determined by the records filed with the examining board.

(6) The examining board may limit, suspend or revoke a certificate of apprenticeship, or reprimand an apprentice, for violation of any provision of this chapter.

(7) An apprentice who has received a certificate of apprenticeship to lapse or who has had an apprenticeship suspended or revoked, may within one year after such lapse or suspension or revocation make application for reregistration, but not more than 2 such reregistrations shall be allowed by the examining board.

The examining board may, at its discretion, allow an apprentice to take the examination shall be determined by the records filed with the examining board.

(8) No person may conduct, maintain, manage, or operate any funeral establishment unless the examining board has issued the person a permit.

(9) The term of registration of a funeral establishment and the permit is conspicuously displayed in the funeral establishment, except that a permit is not required for funeral services held in any building or part of a building that is erected under s. 157.11 (1), private residence, church, or lodge hall, if dead human bodies are not embalmed, cared for, or prepared for burial or transportation, in the building, residence, church, or lodge hall.

(2m) The examining board may not issue a permit to operate a funeral establishment unless all of the following are satisfied:

(a) The building or structure in which the funeral establishment is located is affixed to real property.

(b) A licensed funeral director is in charge of the funeral establishment and the funeral director is also in charge of no more than 2 other funeral establishments and at least one of the funeral establishments of which the funeral director is in charge has a preparation room.

(c) If the funeral establishment is used for caring or preparing for burial or transportation of dead human bodies, the funeral establishment has a preparation room; the preparation room is equipped with a tile, cement, or composition floor; and the preparation room has necessary drainage and ventilation and contains necessary equipment, instruments, and supplies for the preparation and embalming of dead human bodies for burial, transportation, or other disposition. The examining board shall promulgate rules specifying the equipment, instruments, and supplies that are necessary for purposes of this paragraph.

(d) The operator of the funeral establishment is not an operator of a medical care institution, as defined in s. 610.70 (1) (e), or a church, synagogue, or mosque, or any organization, whether or not organized under ch. 187, that operates under a creed, as defined in s. 111.32 (3m).

(2s) The funeral director in charge of the funeral establishment under sub. (2m) shall have full charge, control, and supervision of all funeral directing and embalming services at the funeral establishment, and that funeral director shall ensure that the funeral establishment operates in compliance with this chapter and rules promulgated by the examining board.

(3) Applications for funeral establishment permits shall be made on forms provided by the department and filed with the department and shall be accompanied by the initial credential fee determined by the department under s. 440.03 (9) (a). The renewal date for a funeral establishment permit is specified under s. 440.08 (2) (a), and the renewal fee for such permit is determined by the department under s. 440.03 (9) (a).

(4) Violations of this chapter or any rules or regulations of the examining board committed by any person, or an officer, agent or employee with the knowledge or consent of any person operating such funeral establishments shall be considered sufficient cause for reprimand or for limitation, suspension or revocation of such funeral establishment permit.

(5) No operator of a funeral establishment shall allow any licensed funeral director to operate out of such funeral establishment unless such licensed funeral director is the operator of or an employee of the operator of a funeral establishment which has been granted a permit by the examining board.


Cross-reference: See also chs. FD 1 and 2, Wis. adm. code. Licensing requirements prohibit operators of funeral establishments from allowing free−lance funeral direction. The statute does not prohibit operation of 2 establishments from one location nor regular use of a church for funeral services. 60 Atty. Gen. 147.

445.11 Register; change of address. The examining board shall keep a register of the names and business address of all persons to whom licenses or certificate of registration are issued under this chapter, the number and date of each license or certificate, and date of renewal. The register shall be available for public inspection at cost.

History: 1975 c. 39 s. 732 (2); 1975 c. 199; 1977 c. 418; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.11; 1983 a. 485; 1987 a. 27.

445.12 Prohibited practices. (1) No funeral director may embalm a dead human body when he or she has information reasonably indicating crime in connection with the cause of death,
until permission of the coroner or medical examiner has first been obtained.

(2) No licensed funeral director may sign a certificate stating that he or she has embalmed or prepared a dead human body, when in fact, some other person embalmed or prepared said dead human body; provided, that this subsection shall not be construed as preventing a registered apprentice funeral director assisting the licensed funeral director from so certifying.

(3) No licensed funeral director or operator of a funeral establishment may, directly or indirectly, solicit a funeral service or the right to prepare a dead human body for burial or transportation either before or after death has occurred, or pay or cause to be paid memberships in any association organized under ch. 628 for the purpose of making a profit.

(4) If a licensed funeral director either of which is intended to be provided for the final disposition of a human body from any home, hospital or institution for the purpose of moving or transporting a dead human body or organizing a funeral establishment or agent of an operator of a funeral establishment may not solicit the sale of a burial agreement under s. 445.125 (3m) by doing any of the following:

(a) The solicitation of memberships or the sale of stock or memberships in any association organized under chs. 185 or 193 by any person who is not a licensed funeral director.
(b) The solicitation or sale of burial agreements under s. 445.125 (1) and the solicitation and sale of burial agreements under s. 445.125 (3m) to the extent permitted under sub. (3g) and s. 445.125 (3m).

(3g) (a) Except as provided in pars. (b) and (c), a licensed funeral director, agent of a licensed funeral director, operator of a funeral establishment or agent of an operator of a funeral establishment may not solicit the sale of a burial agreement under s. 445.125 (3m) by doing any of the following:

1. Knowingly contacting a prospective purchaser of a burial agreement in a hospital, health care facility or similar facility or institution.
2. Knowingly contacting a relative of a person whose death is imminent or appears to be imminent.
3. Contacting a prospective purchaser of a burial agreement by door-to-door solicitation or in a manner that violates rules promulgated by the examining board under s. 445.125 (3m) (j) 2.
(b) A licensed funeral director, agent of a licensed funeral director, operator of a funeral establishment or agent of an operator of a funeral establishment may solicit the sale of a burial agreement under s. 445.125 (3m) by contacting any person if any of the following applies:

1. The prospective purchaser requests the contact.
2. The contact is part of a mass-mailing, television, radio, print or other type of advertising campaign that is not directed solely toward persons in a hospital, health care facility or similar facility or institution or toward the relatives of a person whose death is imminent or appears to be imminent.
(c) Paragraph (a) 3. does not prohibit a licensed funeral director, agent of a licensed funeral director, operator of a funeral establishment or agent of an operator of a funeral establishment from using mass-marketing practices or in-person contacts or communications permitted under this section or by a rule promulgated by the examining board under s. 445.125 (3m) (j) 2.

(3r) No licensed funeral director or operator of a funeral establishment may do any of the following:

(a) Require a person who enters into a burial agreement under s. 445.125 (3m) to purchase a life insurance policy used to fund the agreement from an insurance intermediary licensed under ch. 628 who is specified by the funeral director or operator of the funeral establishment.
(b) Authorize an insurance intermediary licensed under ch. 628 to sell or solicit the sale of a burial agreement under s. 445.125 (3m) (b) 2. a. unless the insurance intermediary meets the training requirements established by the examining board by rule under s. 445.125 (3m) (j) 1. a.

(4) No licensed funeral director or operator of a funeral establishment may publish, or cause to be published, any false, misleading or fraudulent advertisement, or take undue advantage of patrons or commit any fraudulent act in the conduct of business, or do any other act not in accord with the rules established by the department of health services and the examining board and not in accord with proper business practice as applied to the business or profession of funeral directing and embalming.

(5) Any licensed funeral director who knowingly permits any person not licensed as a funeral director to embalm or prepare for burial any body under his or her jurisdiction, or who permits any person not licensed as a funeral director to hold or conduct any funeral service for which he or she is responsible, or who permits any person not licensed as a funeral director to remove any dead human body from any home, hospital or institution for preparatory treatment, or who permits any person under his or her supervision or control to do any act not in accord with the rules of the examining board, shall be guilty of violating the provisions of this chapter and subject to the penalties provided therein. The foregoing provisions shall not be construed as to restrict the activities of a duly registered apprentice operating under the supervision of a licensed funeral director.

(6) No licensed funeral director or operator of a funeral establishment may operate a mortuary or funeral establishment that is located in a cemetery or that is financially, through an ownership or operation interest or otherwise, connected with a cemetery. No licensed funeral director or his or her employee may, directly or indirectly, receive or accept any commission, fee, remuneration or benefit of any kind from any cemetery, mausoleum or crematory or from any owner, employee or agent thereof in connection with the sale or transfer of any cemetery lot, outer burial container, burial privilege or cremation, nor act, directly or indirectly, as a broker or jobber of any cemetery property or interest therein.

(7) No licensed funeral director or operator of a funeral establishment may sell or cause to be sold any shares of stocks, certificates of membership or any other form of certificate which provides for any burial benefit or any rebate at the time of death to the holders thereof. This subsection does not prohibit the sale of burial agreements to the extent permitted under, and that are in conformity with, s. 445.125 (3m).

History: 1973 c. 272; 1975 c. 39, 199; 1979 c. 175 s. 25; 1979 c. 221 ss. 662, 663; Stats. 1979 s. 445.12; 1983 a. 485; 1989 a. 307; 1993 a. 100; 1995 a. 27 s. 9126 (19); 1995 a. 295, 2005 a. 441; 2007 a. 20 x. 9136 (a)

Cross-reference: See also chs. FD 2 and DHS 135 and 136, Wis. adm. code. II. Subchapter corporations shall be required to file financial statements with the corporation commissioner. Subchapter corporations that do not file financial statements with the corporation commissioner may not affiliated with a subchapter corporation. If subsidiary corporations have prohibited financial connections, their corporate structure shall not be affected by the prohibitions of s. 165.067 (2) and 445.12 (6). Those statutes are not unconstitutionally vague. Cemetery Service, Inc. v. Department of Regulation and Licensing, 221 Wis. 2d 817, 566 N.W.2d 191 (Cl. App. 1998), 97-2415.

Sub. (6) s. 157.067 (2), which prohibit the joint ownership or operation of a cemetery and a funeral home, do not violate the equal protection or due process clauses of the Wisconsin and U.S. constitutions. Porter v. State, 2018 WI 79, 382 Wis. 2d 697, 913 N.W.2d 842, 16-1599.

Whether parent and subsidiary corporations violate sub. (6), which prohibits an operator of a funeral establishment from being connected with a cemetery, depends upon the facts relating to legal separateness of the parent and subsidiary corporations. 76 Attly. Gen. 5.

445.125 Burial agreements. (1) BURIAL AGREEMENTS FUNDED BY TRUSTS. (a) 1. Except as provided in sub. (3m), whenever a person, referred to in this subsection as the depositor, makes an agreement with another person selling or offering for sale funeral or burial merchandise or services, referred to in this subsection as the beneficiary, for the purchase of a casket, outer burial container not preplaced into the burial excavation of a grave, combination casket—outer burial container or other receptacle not described in sub. (4) (a) 2. for the burial or other disposition of a human remains or for the furnishing of funeral or burial services, either of which is intended to be provided for the final disposition of the body of a person, referred to in this subsection as the potential decedent, wherein the use of such personal property or the furnishing of such services is not immediately required, all payments made under the agreement shall be and remain trust funds, including interest and dividends if any, until occurrence of the death of the potential decedent, unless the funds are sooner released upon demand to the depositor, after written notice to the beneficiary.

2. Such agreements may be made irrevocable as to the first $3,000 of the funds paid under the agreement by each depositor.
A. The agreement meets the requirements specified in pars. (d) to (f) and in the rules promulgated by the examining board under par. (j) 1. b.

b. The licensed funeral director, operator of the funeral establishment or agent is licensed as an insurance intermediary under ch. 628.

2. a. A licensed funeral director or operator of a funeral establishment may authorize an agent who is an insurance intermediary licensed under ch. 628, and who meets the training requirements established by the examining board under par. (j) 1. a., to sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy that meets the requirements specified in pars. (d) to (f).

b. A licensed funeral director or operator of a funeral establishment shall report to the examining board the identity of any agent authorized by the licensed funeral director or operator of the funeral establishment under subd. 2. a. and provide evidence satisfactory to the examining board that such agent meets the requirements established by the examining board under par. (j) 1. a. The examining board shall promulgate rules establishing requirements and procedures for making reports and providing the evidence required under this subd. 2. b.

c. A licensed funeral director or operator of a funeral establishment is responsible for and bound by any act of an agent, authorized by the licensed funeral director or operator of the funeral establishment under subd. 2. a., that is within the scope of the agent’s apparent authority, while a contract under par. (c) 1. between the agent and the licensed funeral director or operator of the funeral establishment remains in force, and after that time until the licensed funeral director or operator of the funeral establishment has made reasonable efforts to recover from the agent any forms for burial agreements provided to the agent by the licensed funeral director or operator of the funeral establishment and other indicia of agency. Reasonable efforts shall include a formal demand in writing for return of the indicia, and notice to the examining board if the agent does not comply with the demand promptly.

(c) 1. No agent of an operator of a funeral establishment may solicit the sale of or sell a burial agreement funded with the proceeds of a life insurance policy unless he or she has a contract with the operator of the funeral establishment that authorizes him or her to act as the agent of the operator of the funeral establishment and that authorizes the operator of the funeral establishment to act as the agent of the operator of the funeral establishment and that authorizes the operator of the funeral establishment to act as the agent of the operator of the funeral establishment.

2. If an agent of an operator of a funeral establishment solicits the sale of or sells a burial agreement funded with the proceeds of a life insurance policy, the agent shall do all of the following at the time of solicitation:

a. Disclose to the prospective purchaser of the burial agreement the identity of the funeral establishment of which he or she is an agent.
b. Furnish to the applicant a copy of the booklet prepared and distributed by the examining board under par. (j) 3. that describes the differences between funding a burial agreement with the proceeds of a life insurance policy under this subsection and entering into a burial agreement funded by a trust under sub. (1).

d. A burial agreement that is funded with the proceeds of a life insurance policy shall specify in the agreement the funeral establishment that will be used to provide the funeral services or funeral merchandise to be provided under the agreement.

(e) 1. A burial agreement that is funded with the proceeds from a life insurance policy shall include a provision setting forth the nature and extent of any price guarantee for the funeral merchandise or funeral services that are to be provided under the burial agreement.

2. If an agent solicits and sells a burial agreement that is funded with the proceeds of a life insurance policy, the licensed funeral director who owns the funeral establishment or is an agent of the operator of the funeral establishment that will provide funeral merchandise or funeral services under the burial agreement shall ratify the burial agreement in writing and with his or her signature.

(f) The price of any funeral merchandise or funeral services provided under a burial agreement funded with the proceeds of a life insurance policy may not exceed the price for the merchandise or services that, at the time that the merchandise is provided or the services are performed, is set forth in the funeral establishment’s general price list required under the funeral industry practices regulations of the federal trade commission.

(g) Before an agent, a licensed funeral director or an operator of a funeral establishment accepts an applicant’s initial premium for a burial agreement that is funded or will be funded by a life insurance policy, the agent, funeral director or operator of a funeral establishment shall comply with the requirements under par. (h) and shall, in a writing that is clear and conspicuous, disclose the following information to the applicant:

1. The fact that a life insurance policy is involved in or connected to, or is being used to fund, the burial agreement.
2. The type of insurance instrument that is funding the burial agreement.
3. The effect on the burial agreement of all of the following:
   a. Changing the life insurance policy, including changing the assignment of the policy proceeds, changing the beneficiary designation or changing the use of the proceeds.
   b. Any penalties incurred by the policyholder as a result of failing to make premium payments.
   c. Any penalties incurred or money received as a result of cancellation or surrender of the life insurance policy.
4. The nature of the relationship between the insurance intermediary who solicited or is selling the life insurance policy and the funeral establishment that will be providing funeral or burial merchandise or services under the burial agreement.
5. The relationship of the life insurance policy to the funding of the burial agreement and the existence and terms of any guarantees, other than a guarantee specified in subd. 6., relating to the burial agreement.

6. A list of the funeral merchandise and funeral services that are applied for or contracted for under the burial agreement and all relevant information concerning the price of the funeral services provided under the burial agreement, including a statement as to whether the purchase price of the funeral merchandise or funeral services provided under the burial agreement is guaranteed at the time of the purchase of the burial agreement or whether the purchase price of the funeral merchandise or funeral services provided under the burial agreement is to be determined at the time of need, and a statement that the price of the funeral merchandise or funeral services is subject to the limit specified in par. (f).

7. All relevant information concerning what occurs, and whether any entitlements or obligations arise, if there is a difference between the proceeds of the life insurance policy and the amount of money actually needed to fund the burial agreement.

8. Any restrictions, including geographic restrictions, or penalties relating to delivery or performance under the burial agreement, including any restrictions or penalties relating to the inability of the operator of the funeral establishment to perform.

9. A statement as to whether a sales commission or other form of compensation is being paid to the agent who sold or solicited the sale of a burial agreement and, if so, the identity of the persons to whom the commission or other compensation is paid.

(h) If an applicant under par. (g) is terminating a trust established under sub. (1), the agent, licensed funeral director or operator of the funeral establishment shall, before accepting the applicant’s initial premium, furnish written notice to the examining board that satisfies requirements established by the examining board by rule under par. (j) 1. d., and may not accept the applicant’s initial premium until 30 days after providing written notice under this paragraph.

(hm) An agent authorized by a licensed funeral director or operator of a funeral establishment under par. (b) 2. a. may not engage in unfair or deceptive acts or practices specified in the funeral industry practices regulations of the federal trade commission, and shall comply with requirements to prevent unfair or deceptive acts or practices specified in such regulations.

(i) 1. A licensed funeral director or operator of a funeral establishment who, either directly or through an agent, solicits the sale of or sells a burial agreement funded with the proceeds of a life insurance policy shall maintain a record of the burial agreement that identifies the life insurance policy used to fund the agreement.

2. The funeral director under subd. 1. or the funeral director in charge of the funeral establishment under subd. 1. shall make a record maintained under subd. 1. available to the examining board if the board submits a written request to examine the record to the funeral director at least 3 days before the examination is to occur.

(j) 1. The examining board shall promulgate rules establishing all of the following:

   a. Training requirements that an insurance intermediary licensed under ch. 628 must satisfy to sell or solicit the sale of a burial agreement under this subsection.

   b. Minimum standards that an individual burial agreement must satisfy if it is funded with the proceeds of a life insurance policy.

   c. Minimum standards that a contract between an agent and an operator of a funeral establishment must satisfy to authorize the agent to sell or solicit the sale of a burial agreement funded with the proceeds of a life insurance policy on behalf of the operator of the funeral establishment.

   d. The form and content of written notice that a licensed funeral director, operator of a funeral establishment or agent of a licensed funeral director or operator of a funeral establishment is required to provide to the examining board under par. (h).

2. The examining board may promulgate rules establishing standards for marketing practices for a burial agreement that is funded with the proceeds of a life insurance policy, including standards for telephone solicitation of prospective purchasers. The rules promulgated under this subdivision may prohibit a method of telephone solicitation if the examining board determines that the prohibition is necessary to protect the public.

3. The examining board shall prepare and distribute a booklet that describes the differences between funding a burial agreement with the proceeds of a life insurance policy under this subsection and entering into a burial agreement funded by a trust under sub.
(1) The examining board may charge a reasonable fee for the cost of preparation and distribution of the booklet.

(4) **APPLICABILITY.** (a) This section shall not apply to any of the following:

1. A contract to provide funeral and burial service for any person if such contract is incidental to maintaining such person in a home, hospital or institution.

2. The sale or delivery of cemetery lots, graves, outer burial containers preplaced into the burial excavation of a grave, cremation urns, mausoleum spaces, as defined in s. 157.061 (10), or grave or cemetery lot markers or monuments before their use is required or the sale of undeveloped spaces, as defined in s. 157.061 (17).

(bn) Sections 701.0410 to 701.0418 do not apply to an agreement, interest, or dividend that is made irrevocable under sub. (1) (a) 2. to 4.


**Cross-reference:** See also ch. FD 6, Wis. adm. code.

### 445.13 Investigations; hearing; revocation of licenses.

1. Subject to the rules promulgated under s. 440.03 (1), the examining board may make investigations, subpoena witnesses, conduct hearings, limit, suspend or revoke a license of a funeral director, a certificate of registration of an apprentice or a permit of an operator of a funeral establishment and reprimand a funeral director, apprentice or operator of a funeral establishment for any violation of 15 USC 45 and 57, of this chapter or of any rule of the department of health services or the examining board, for unprofessional conduct, including misrepresentation or fraud in obtaining the license, permit or certificate of registration, or for any violation of this chapter or any rule of the examining board by an agent authorized by the funeral director or operator of the funeral establishment under s. 445.125 (3m) (b) 2. a.

In addition to or in lieu of a reprimand or limitation, suspension or revocation of a license or permit under sub. (1), the examining board may assess against any person who violates s. 445.12 (3g) or (3r) or 445.125 (3m) or a rule promulgated under s. 445.125 (3m) (j) a forfeiture of no more than $1,000 for each violation.

The examining board shall investigate an allegation that a funeral director has failed to do any of the following:

(a) Mail or present a death record within 10 days after receipt from the person responsible for completing the medical certification under s. 69.18 (2).

(b) Within any period of 180 days, mail or present 6 or more death records within the 2−day time limit under s. 69.18 (1) (bn).

(c) Obtain the written permission to effect final disposition required under s. 69.18 (3) (b).

(d) Mail a report of final disposition required under s. 69.18 (3) (a) before effecting a final disposition, as defined in s. 69.01 (11).

2. No reprimand or order limiting, suspending or revoking a license, certificate of registration or permit, or no assessment of forfeiture, shall be made until after a hearing conducted by the examining board. This subsection does not apply to a license, certificate of registration or permit that is limited or suspended under s. 440.13 (2) (c) or that is revoked under s. 440.12.

History: 1975 c. 39 ss. 657j, 657k, 732 (2); 1977 c. 418; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.13; 1983 a. 485; 1985 a. 315; 1995 a. 27 s. 9126 (19); 1995 a. 295; 1997 a. 191; 237; 2007 a. 20 s. 9121 (6) (a); 2017 a. 334.

**Cross-reference:** See also ch. FD 3, Wis. adm. code.

### 445.14 Funeral directors; who to employ.

No public officer, employee or officer of any public institution, physician or surgeon shall send, or cause to be sent, to any funeral director, the corpse of any deceased person, without having first made due inquiry as to the desires of the next of kin, or any persons who may be chargeable with the funeral expenses of such deceased person, and if any such kin or person is found, his or her authority or direction shall be received as to the disposal of such corpse.

History: 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.14; 1983 a. 485.

### 445.15 Penalties.

1. Except as provided in sub. (1m), any person violating any provision of this chapter or any rule of the department of health services and the examining board relating to its subject matter, shall be fined not more than $5,000, imprisoned not less than 30 days nor more than 3 months, or both.

2. A funeral director or operator of a funeral establishment who violates s. 445.12 (3r) shall be fined not more than $5,000 for each violation. Each day that an insurance intermediary authorized by a funeral director or operator of a funeral establishment fails to meet the training requirements established by the examining board by rule under s. 445.125 (3m) (j) 1. a. constitutes a separate violation of s. 445.12 (3r) (b).

A funeral director who fails to do the acts described under s. 445.13 (1m) or who fails to do the act described under s. 445.13 (1m) (c), upon being convicted and fined for a 2nd offense, may have his or her license suspended or revoked, and, if revoked, may not be relicensed for at least one year and only after a regular examination.

### 445.16 Exceptions.

No provision of this chapter shall apply to, or in any way interfere with the duties of any officer of any public institution, nor with the duties of any officer of a medical college, county medical society, anatomical association, accredited college of embalming or any other recognized person carrying out the statutes prescribing the conditions under which donated or indigent dead human bodies are held subject for anatomical study; nor with the customs or rites of any religious sect in the burial of their dead.

History: 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.16; 1981 c. 390; 1983 a. 485.