CHAPTER 445
FUNERAL DIRECTORS

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. Sanitary science, public health, transportation, business ethics and the laws of this state and rules of the department of

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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; 1983
a. 485; 1991 a. 39; 1995 a. 27; 9.1826 (39); 2005 a. 206; 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 24 semester credits of
instruction in a recognized college or university, in a course of
study approved by the examining board, or have equivalent edu-
cation.

(e) The person must have satisfactorily completed 9 months or
more of instruction in a prescribed course in mortuary science
approved by the examining board.

(f) The person must have completed one year of apprenticeship
as prescribed in s. 445.095, 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 comprehen-
sive 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 require-
ments 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.

History: 1971 c. 213 s. 5; 1975 c. 39 ss. 656, 657, 732 (2); 1975 c.
199; 1977 c. 29; 1979 c. 175 s. 29; 1979 c. 221 s. 662, 2202 (45);
Stats. 1979 s. 445.05; 1981 c. 380; 1983 c. 391 s. 211; 1985 a. 485; 1991 a. 316; 1999
a. 35; 2013 a. 314; 2017 a. 304; 2019 a. 137.

Cross-reference: See also ch. FD 1, Wis. adm. code.

445.06  Renewal of licenses.  (1) 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).

(2) In order to renew a license under this chapter, the applicant
shall furnish proof, to the satisfaction of the examining board, of
all of the following:

(a) That the applicant is doing business at a recognized funeral
establishment.

(b) That the applicant has satisfied the applicable continuing
education requirements under s. 445.07.

History: 1975 c. 39 ss. 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. 25; 1991 a.

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

445.07  Continuing education.  (1) In order to renew a
license under this chapter, an applicant shall, except as provided in
sub. (2), furnish proof of having satisfied the following:

(a) For the renewal of a license that expires on the first renewal
date after the date on which the examining board initially granted
the license, completion of 4 hours of continuing education subse-
quent to the date the applicant was granted the initial license. The
examining board shall, in the rules promulgated under sub. (3),
specify permitted or required subjects for the continuing edu-
cation under this paragraph, which shall be subjects that the examin-
ating board determines prepare a new licensee for practice as a
funeral director.

(b) For each renewal subsequent to the renewal described in par.
(a), completion of 15 hours of continuing education in the pre-
vious 2-year licensure period.

(2) (a) The examining board may waive the requirement
under sub. (1) (a) in cases where the examining board is satisfied
that an applicant would be unable to satisfy the requirement prior
to the renewal date.

(b) Subsection (1) (a) does not apply to an applicant who was
granted a reciprocal license under s. 445.08.

(3) The examining board shall promulgate rules to implement
this section.

History: 2019 a. 137.

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 state-
ment from an authorized official of that state that verifies the per-
son’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. 445.08; 1981
a. 331.

Cross-reference: See also s. 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) A
person desiring to become an apprentice as a funeral director and
who satisfies all of the following shall apply on a form provided
for the purpose and appear before the examining board or any duly
appointed representative of the examining board:

a. The applicant is 18 years of age or older.

b. The applicant holds a high school diploma or possesses
equivalent education as defined by the examining board.

c. The applicant does not have an arrest or conviction record,
subject to ss. 111.321, 111.322, and 111.335.

d. The applicant has completed a 16-hour certification class
approved by the examining board or has satisfied the requirement
under s. 445.045 (1) (e).

The applicant pays the fee specified in s. 440.05 (6).

2. The application under subd. 1. must be substantiated by the
oath of the applicant.

3. When the examining board is satisfied that an applicant for
apprenticeship satisfies the requirements for granting a certificate of
apprenticeship, it shall grant the applicant a certificate of
apprenticeship.

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

(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 direc-
tor 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

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ber 1, 2020, are designated by NOTES. (Published 10–1–20)
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.

(2m) All apprentices under this chapter shall be paid at least the minimum wage in effect in this state.

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

(3g) 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 of 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.

(3r) 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.

(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.


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

445.105 Funeral establishment permits. (1) No person may conduct, maintain, manage, or operate any funeral establishment unless the examining board has issued the person a permit for the 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 director is in charge of no more than 2 funeral establishments and at least one of the funeral establishments is located in charge of 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.
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(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.

**History:** 1975 c. 39 s. 732 (2); 1977 c. 29, 418; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.105; 1987 a. 27; 1991 a. 39; 2005 a. 266; 2007 a. 20; 2011 a. 146.

**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 purchase 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 any sum of money or other valuable consideration for the securing of the right to do such work. This subsection does not prohibit any of the following:

(a) The solicitation of memberships or the sale of stock or memberships in any association organized under ch. 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 directly 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 preparation, or who permits any person under his or her supervision or associated with him or her to violate the provisions of this chapter, 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).


**Cross-reference:** See also chs. FD 2 and DHS 135 and 136, Wis. adm. code.

If subsidiary corporations have prohibited financial connections, their corporate structure will not save them from the prohibitions of ss. 157.067 (2) and 445.12 (6). Those statutes are not unconstitutionally vague. Cemetery Service, Inc. v. Department of Regulation and Licensing, 221 Wis. 2d 817, 586 N.W.2d 191 (Ct. App. 1998), 97−2115.

Sub. (6) and 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

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funeral services, and services furnished to the beneficiary, shall be trust funds, including interest and dividends if any, to the beneficiary, upon receipt of both a written statement of the beneficiary’s death, in the form prescribed under s. 186.01 (3m), and shall be held in a separate account in the name of the depositor, in trust for the beneficiary until the trust fund is released under either of the conditions provided in par. (a) 1.

2. In the event of the death of the depositor before the death of the potential decedent, the funds shall be released to the beneficiary, upon receipt of both a written statement of the beneficiary’s death, in the form prescribed under s. 186.01 (3m), and shall be held in a separate account in the name of the depositor, in trust for the beneficiary until the trust fund is released under either of the conditions provided in par. (a) 1.

3. The depositor shall furnish with a copy of the receipts, certificates or other appropriate documentary evidence showing that the funds under par. (a) have been deposited or invested in accordance with this subsection. The depositor or the beneficiary shall furnish the bank, trust company, savings bank, savings and loan association or credit union with a copy of the contract.

4. The bank, trust company, savings bank, savings and loan association, or credit union shall release the trust funds under par. (a) to the beneficiary upon receipt of both a written statement of the beneficiary that the agreement was complied with and one of the following:

   a. A certified copy of the certificate of death of the potential decedent.
   b. An affidavit made by the beneficiary of the potential decedent’s death, in the form prescribed under s. 69.02 (1) (c), if the bank, trust company, savings bank, savings and loan association, or credit union consents to receipt of the affidavit. The affidavit shall be accompanied by an invoice for the cost of the services and personal property for which release of the funds is sought. If the bank, trust company, savings bank, savings and loan association, or credit union consents to receipt of the affidavit and to release of the funds, it is immune from civil liability for the amount of the funds so released.

   c. The payment pursuant to this subsection of such fund and any interest or dividends which may have accumulated shall relieve the bank, trust company, savings bank, savings and loan association or credit union of any further liability for such funds, interest or dividends. A bank need not comply with ch. 223 to accept and disburse deposits under this subsection.

(3m) BURIAL AGREEMENTS FUNDED WITH PROCEEDS OF LIFE INSURANCE POLICIES. (a) In this subsection:

   1. “Agent” means an authorized representative of a funeral director or operator of a funeral establishment.
   2. “Burial agreement” means a written agreement between an operator of a funeral establishment or funeral director and a person in which the operator of the funeral establishment or funeral director agrees to provide to a person, after that person is deceased, funeral merchandise or funeral services.
   3. “Cash advance item” means personal property or a service that is obtained by a funeral director or operator of a funeral establishment from a third party and that is paid for by the funeral director or operator of the funeral establishment on behalf of, and subject to reimbursement from, a person purchasing funeral merchandise or funeral services from the funeral director or operator of the funeral establishment. “Cash advance item” includes cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or vocalists, nurses, obituary notices, gratuities and death certificates.
   4. “Funeral merchandise or funeral services” means personal property or services typically sold or provided in connection with the final disposition of human remains, including caskets or other primary containers not preplaced into the burial excavation of a grave, transportation containers, funeral clothing and accessories, embalming services and funeral directing services. “Funeral merchandise or funeral services” does not include a cash advance item or opening and closing costs that are associated with the burial of a deceased person.

   b. A licensed funeral director, operator of a funeral establishment, an agent of a licensed funeral director or, subject to par. (c), an agent of an agent of a funeral establishment may sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy if all of the following apply:

      a. The burial 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 and that meets the requirements specified in pars. (d) to (f).

      a. 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 training requirements established by the examining board by rule 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 satisfies the requirements established by the examining board by rule under par. (j) 1. c.

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 subd. (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 subd. (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 placed 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).

(b) 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 a 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.

(1e) 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) (3) a forfeiture of no more than $1,000 for each violation.

(1m) 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) (bm).

(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, 657n, 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; 2007 a. 20 s. 9112 (6) (a); 2013 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.

(1m) 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).

(2) A funeral director who fails to do the acts described under s. 445.13 (1m) (b) 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.

**History:** 1975 c. 39; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.15; 1985 a. 315; 1995 a. 27 s. 9126 (19); 1995 a. 295; 2005 a. 266; 2007 a. 20 s. 9112 (6) (a).

**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. 223 s. 662; Stats. 1979 s. 445.16; 1981 c. 390; 1983 a. 485.