CHAPTER 445  
FUNERAL DIRECTORS

445.01 Definitions.
445.03 Powers of examining board.
445.04 Funeral directors; licenses.
445.045 License requirements.
445.05 Funeral establishment permits.
445.06 Renewal of licenses.
445.07 Prior to 11−1−18 it reads: 445.07
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.
445.15 Printed advertising.
445.16 Exceptions.

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.

NOTE: Sub. (2) is shown as amended eff. 11−1−18 by 2017 Wis. Act 304. Prior to 11−1−18 it reads:

(2) An “apprentice funeral director” is any person engaged in the learning of the practice of funeral directing under the instruction and personal supervision of a duly licensed and registered funeral director under this chapter, whose funeral establishment is located in this state; provided, that no person shall serve or attempt to serve as such apprentice funeral director under any such funeral director until the person has filed registration thereof with the examining board.

(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, entire 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 disinfec-

(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 preparing for the burial or transportation 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 dead human bodies.

History: 1975 c. 39 ss. 648m, 649, 649g, 732 (2); 1975 c. 199; 1977 c. 272 s. 98; 1979 c. 175 s. 29, 30, 33; 1979 c. 221 ss. 660, 2202 (45); Stats. 1979 s. 445.01; 1981 c. 20; 1983 a. 189, 485; 1993 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. 1 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. 660; 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;
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.

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

NOTE: Par. (e) is shown as amended eff. 11−1−18 by 2017 Wis. Act 304. Prior to 11−1−18 it read:

(e) 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.

(4) 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).

NOTE: Par. (e) is shown as amended eff. 11−1−18 by 2017 Wis. Act 304. Prior to 11−1−18 it read:

(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 one year of college work or equivalent education.

(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).

(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, resides in 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. DHS 135 and 136, Wis. adm. code.
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 employ 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 to the examining board at least once each year, in writing, the number of funeral services at each funeral establishment in which he or she has engaged in funeral directing, and has assisted in embalming or preparing 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. This work must all have been done within 4 years from the date of registering as an apprentice, but the work may be done at any one funeral director's line of sight.

(4) Before such apprentice shall be eligible to receive a license to practice funeral directing, the apprentice shall present, in connection with the other evidence required by this chapter, affidavits from the several licensed funeral directors at whom the apprentice has worked, showing that the apprentice has 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.

NOTE: Sub. (5) is created eff. 11−1−18 by 2017 Wis. Act 304.

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 apprenticeship, not to exceed one additional year, is granted by the examining board. After 4 years have elapsed or, if an extension is granted, after the expiration of the extension, the apprenticeship may not be continued unless 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.

NOTE: Sub. (1) is shown as amended eff. 11−1−18 by 2017 Wis. Act 304. Prior to 11−1−18 it reads:

(1) The term of an apprenticeship for a funeral director shall begin on the date of registration and terminate after a period of not more than 4 years from the time of first registration unless the time is extended under this chapter. A registered apprentice must make application for license and must appear before the examining board for examination within 4 years from the date of registration unless the time is extended under this chapter. Noncompliance with this subsection terminates the right to serve as an apprentice.

(2) In all applications 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 allowed 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 credit under a registration for the time actually served under a previous registration; provided, that if the previous registration has been suspended or revoked for cause, not more than 75 percent of the time previously served shall be credited on the reregistration. History: 1975 c. 39, s. 732 (2); 1975 c. 199; 1977 c. 29; 1979 c. 175 ss. 29, 53; 1979 c. 221 ss. 662, 2202 (45); Stats. 1979 s. 445.095; 1981 c. 20, 162, 380; 1981 c. 391 ss. 211; 1983 a. 485; 1984 a. 39; 1995 a. 27 s. 9130 (4); 1997 a. 5; 2003 a. 266; 2009 a. 291; 2017 a. 304.

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

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 fee-fance 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 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. 682; also is specified by the funeral director or operator of the funeral establishment.

(b) Authorize an insurance intermediary licensed under ch. 682 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...
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 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 certify in writing 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.

(b) 2. In the event of the death of the depositor before the death of the potential decedent, title to funds under par. (a) shall vest in the potential decedent, and the funds shall be used for the personal property and services to be furnished under the contract for the funeral of the potential decedent.

(c) 3. The depositor shall be furnished 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. 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.

(2) CASH ADVANCE AGREEMENTS. (a) 1. Any depositor who made an irrevocable agreement under sub. 2. may designate a different beneficiary at any time prior to death, after written notice to the current beneficiary.

(b) 1. All trust funds under par. (a) shall be deposited with a bank or trust company within the state whose deposits are insured by the federal deposit insurance corporation, deposited in a savings and loan association or savings bank within the state whose deposits are insured by the federal deposit insurance corporation, or invested in a credit union within the state whose savings are insured by the national board, as defined in 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 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.

(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 3rd 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, rental, temporary or disposable caskets or containers, outer burial 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 or closing costs that are associated with the burial of a deceased person.

(b) 1. A licensed funeral director, an operator of a funeral establishment, an agent of a licensed funeral director or, subject to par. (c), an agent of an operator 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).

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 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.

d. A licensed funeral director or operator of a funeral establishment solicits the sale of or sells 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 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 an agent of the operator of the funeral establishment that will provide funeral merchandise or funeral services under the burial agreement shall certify 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. (b) 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 solicits 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 related to delivery or performance under the burial agree-
ment, 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 practice regulations of the federal trade commission, and shall comply with requirements to prevent unfair or deceptive acts or practices specified in such regulations.

(j) 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.


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.

(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) (j) 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 any 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, 657o, 732 (2); 1977 c. 418; 1979 c. 175 s. 29; 1979 c. 221 s. 662; Stats. 1979 s. 445.13; 1983 a. 485; 1985 s. 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 6, 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.
or provides any funeral or cremation service, unless the advertisement includes the address of one funeral establishment or place of business at which the person conducts such business or provides such services.

History: 2005 a. 266.

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).

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. 9121 (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. 221 s. 662; Stats. 1979 s. 445.16; 1981 c. 390; 1983 a. 485.

(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: 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. 9121 (6) (a).