

Clearinghouse Rule 20-026

STATE OF WISCONSIN
FUNERAL DIRECTORS EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE	:	FUNERAL DIRECTORS
FUNERAL DIRECTORS	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE TBD)

ORDER

An order of the Funeral Directors Examining Board to amend FD 1.055 and 1.056 (1) (i) relating to certification courses for funeral director apprentices.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Section 445.03 (2), Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), and 445.03 (2), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., “[e]ach examining board...Shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..”

Section 445.03 (2), Stats., “[t]he examining board may: (a) Make and enforce rules not inconsistent with this chapter establishing professional and business ethics for the profession of funeral directors and for the general conduct of the business of funeral directing, and for the examining and licensing of funeral directors and the registration of apprentices.

(b) Grant licenses to funeral directors, certificates of registration to apprentices, and permits to operators of funeral establishments...”

Related statute or rule: None.

Plain language analysis:

FD 1.056 (1) (i) is repealed and FD 1.055, as will be amended by CR 19-163 upon its effective date, is amended to remove the requirement that the 16-hour certification course for certification as an apprentice be completed in-person.

Summary of, and comparison with, existing or proposed federal regulation: None.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A.

Comparison with rules in adjacent states:

Illinois:

Applicants for funeral director licensure must complete a 12 month internship within five years of applying for licensure (Ill. Admin. Code § 1250.135). A certification course does not appear to be required prior to beginning the internship, although internship candidates must have completed a course of study in mortuary science (Id. at § 125.120).

Iowa:

Iowa requires completion of a 12 month internship prior to licensure as a funeral director. There do not appear to be education or examination requirements prior to beginning an internship (IAC § 645—101.2 (1)).

Michigan:

Michigan requires applicants for funeral director licensure to complete a one year resident trainee program. Training may begin after completing the required professional education for licensure, but there does not appear to be a certification course that must be taken other than the required college credits (MCL § 339.1808).

Minnesota:

Funeral director internship applicants must first have completed a bachelors in mortuary science, a bachelor's in science plus a course of study in mortuary science, or equivalent, and must pass both national competency and state specific statutes and rules examinations. There does not appear to be an internship certification course requirement other than the required college degree (MN Stats. § 149A.20 (6)).

Summary of factual data and analytical methodologies:

The Funeral Directors Examining Board seeks to pursue a rule change that would allow remote instruction for the 16-hour course required for certification as a funeral director

apprentice. Given the nature of the Covid-19 epidemic, in-person instruction is not desirable or possible for many applicants and course providers.

The alternative of not implementing this rule would be to deprive funeral director apprentice applicants of certification due to not being able to meet the in-person instruction requirement of the 16-hour certification course.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The rule was posted for 14 days on the department website to solicit economic impact comments. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

None.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone (608) 266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing to be held on August 25, 2020 at 9:30 AM to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. FD 1.055, as affected by CR 19-163, is amended to read:

FD 1.055 In addition to s. FD 1.05, the applicant must provide evidence of completion of an ~~in-person~~ 16-hour certification class approved by the board.

SECTION 2. FD 1.056 (1) (i) is repealed.

SECTION 3. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats., with the following exception:

(1) Section 1 of this rule takes effect on the effective date of CR19-163. If CR 19-163 does not take effect, Section 1 of this rule is void.

(END OF TEXT OF RULE)
