

# Notice of Agency Rulemaking Proposal

AGENCY: 02-331, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine State Board of Funeral Service

CHAPTER NUMBER AND TITLE:

Chapter 11: Annual Renewal; Continuing Education; Inactive Status (amend)

TYPE OF RULE (*check one*):     Routine Technical     Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY:

The proposed rule was developed as a result of the change in statute regarding continuing education requirements. The rule clarifies that at the time of an odd-year renewal, practitioners of funeral service shall certify compliance with the continuing education requirement set forth in 32 M.R.S. § 1506 and Chapter 11 of Board rules. The proposed rulemaking would make changes to the current rule regarding what is considered approved continuing education programs, by enlarging the scope of potential programs that would satisfy the continuing education requirement and removing the requirement that sponsors and/or activities be pre-approved by the Board. The proposed rule would also clarify that if a licensee with inactive status seeks reinstatement to active status, the six (6) contact hours of continuing education that are required may be completed either through in-person or through online or distance learning programs.

Copies of the proposed rule and rulemaking documents may be found on the Board's webpage: <https://www.maine.gov/pfr/professionallicensing/professions/board-funeral-services>. Scroll down to "What's New" and "Rulemaking."

Date, time and location of PUBLIC HEARING (*if any*): N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing. Comments on the proposed rules may be submitted by emailing [Candice.B.Wright@maine.gov](mailto:Candice.B.Wright@maine.gov) or by mailing comments to the Maine Board of Funeral Service, Attn: Candice Wright, 35 State House Station, Augusta, ME 04333-0035.

COMMENT DEADLINE: Friday, October 28, 2022, 5:00 p.m. Comments may be submitted to Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, [Candice.B.Wright@maine.gov](mailto:Candice.B.Wright@maine.gov).

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, email*): Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, [Candice.B.Wright@maine.gov](mailto:Candice.B.Wright@maine.gov), 207-624-8601, TTY: Maine relay 711.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): N/A

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 M.R.S. §§ 1451, 1501 and 1506

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*):

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-funeral-services>

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: [kristin.racine@maine.gov](mailto:kristin.racine@maine.gov)

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\* Check one of the following two boxes.

The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rulemaking notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

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**Please approve bottom portion of this form and assign appropriate AdvantageME number.**

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_

*(authorized signature)*

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
014	02A	4230	01	4946				

# Rulemaking Fact Sheet

(5 MRS §8057-A)

AGENCY: 02-331, Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine State Board of Funeral Service

NAME, ADDRESS, PHONE NUMBER, EMAIL OF AGENCY CONTACT PERSON:

Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, [Candice.B.Wright@maine.gov](mailto:Candice.B.Wright@maine.gov), 207-624-8601, TTY: Maine relay 711.

CHAPTER NUMBER AND RULE TITLE:

Chapter 11: Annual Renewal; Continuing Education; Inactive Status (amend)

TYPE OF RULE (*check one*):  Routine Technical  Major Substantive

STATUTORY AUTHORITY: 32 M.R.S. §§ 1451, 1501 and 1506

DATE, TIME AND PLACE OF PUBLIC HEARING: N/A. Pursuant to 5 M.R.S. § 8052(1) and § 8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this filing. Comments on the proposed rules may be submitted by emailing [Candice.B.Wright@maine.gov](mailto:Candice.B.Wright@maine.gov) or by mailing comments to the Maine Board of Funeral Service, Attn: Candice Wright, 35 State House Station, Augusta, ME 04333-0035.

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PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE:

The proposed rule was developed as a result of the change in statute regarding continuing education requirements. The rule clarifies that at the time of an odd-year renewal, practitioners of funeral service shall certify compliance with the continuing education requirement set forth in 32 M.R.S. § 1506 and Chapter 11 of Board rules. The proposed rulemaking would make changes to the current rule regarding what is considered approved continuing education programs, by enlarging the scope of potential programs that would satisfy the continuing education requirement and removing the requirement that sponsors and/or activities be pre-approved by the Board. The proposed rule would also clarify that if a licensee with inactive status seeks reinstatement to active status, the six (6) contact hours of continuing education that are required may be completed either through in-person or through online or distance learning programs.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES  NO

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

It is anticipated that the changes will enlarge the scope of potential programs that would satisfy the continuing education requirement, remove the requirement for program and/or activity pre-approval by the Board, and generally align the rule with the statutory changes as enacted by P.L. 2019, c. 101, codified in 32 M.R.S. § 1506.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) Expertise of board staff and board members.

ESTIMATED FISCAL IMPACT OF THE RULE: None known. It is anticipated that the rule change will increase the type and scope of continuing education programs that will satisfy the continuing professional education requirement at the time of odd-year renewal of licenses for practitioners of funeral service.

**FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:**

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

[see §8057-A(2)(A)]

INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED  
AND HOW THEY WILL BE AFFECTED: [see §8057-A(2)(B)]

BENEFITS OF THE RULE: [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*

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02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

331 MAINE STATE BOARD OF FUNERAL SERVICE

Chapter 11: ANNUAL RENEWAL; CONTINUING EDUCATION; INACTIVE STATUS

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**SUMMARY:** This chapter describes the continuing education requirement and sets forth procedures regarding inactive status licensure.

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1. Annual Renewal; Continuing Education

Licenses issued by the board are renewable annually upon application to the board and payment of the license fee required by Chapter 10 of the rules of the Office of Professional and Occupational Regulation, plus any applicable late fee.

1. At the time of an odd-year renewal, practitioners of funeral service shall certify to compliance with the continuing education requirement set forth in 32 M.R.S. § 1506 and this chapter.
2. At the time of each renewal, funeral attendants shall certify as to completion of the annual training in bloodborne pathogens and highly hazardous chemicals required by Chapter 10, Section 4(3) of the board's rules.

2. Approved Continuing Education Programs and Activities

1. Practitioners of funeral service may satisfy the requirement of Section 1(1) by completing:
  - (a) programs approved for continuing education credit by the Academy of Professional Funeral Service Practice, its successor organization or a comparable organization or;
  - (b) programs hosted or sponsored by the Maine Funeral Directors Association or the National Funeral Directors Association, their successor organizations or comparable organizations or;
  - (c) programs hosted or sponsored and approved for continuing education credit by any state funeral board or state licensing authority; or
  - (d) any other program that relates to the following subject areas:
    - (i) professional competency, professional conduct, business ethics, or legal aspects relating to funeral practice; or
    - (ii) techniques including scientific and clinical advances relating to embalming and funeral arranging.

### 3. Hardship Deferment

A licensee may request a deferment of continuing education from the board due to health reasons, military service or other unforeseeable circumstances of genuine hardship. Any licensee who receives a deferment shall make up the deferred continuing education according to a schedule determined by the board in consultation with the licensee.

Deferred continuing education, once completed by a licensee, may not also be used to satisfy the continuing education requirement for a license year other than the year for which the deferment was granted.

### 4. Documentation and Audit

It is the responsibility of each licensee to maintain records, certificates, or other evidence of compliance with the continuing education requirement. Reporting, verification and audit of continuing education is governed by Chapter 13 of the rules of the Office of the Professional and Occupational Regulation.

### 5. Inactive Status Licensure

#### 1. Application and Renewal

A practitioner of funeral service may apply for an inactive status license. A licensee who applies for inactive status during the 3 months prior to expiration of the license shall demonstrate compliance with the continuing education requirement license year during which application is made. The board may refuse to issue an inactive status license to a licensee who:

- A. Is ineligible for renewal of an active license; or
- B. Applies for an inactive status license during the 3 months prior to expiration and fails to demonstrate compliance with the continuing education requirement for the license year during which application is made.

#### 2. Prohibition Against Practice

A licensee may not engage in the practice of funeral service while in inactive status.

#### 3. Continuing Education

A licensee need not comply with the continuing education requirement contained in Chapter 11 of the board's rules while in inactive status.

#### 4. Renewal of Inactive Status License

A licensee may renew an inactive status license by:

- A. Submitting a renewal application;
  - B. Paying the license fee required by Chapter 10 of the rules of the Office of Professional and Occupational Regulation;” and
  - C. Providing such other information as the board may require.
5. Reinstatement to Active Status

The holder of an inactive status license may return to active status upon application to the board, payment of the required license or reinstatement fee, and certification of completion of six (6) contact hours of continuing education during the one-year period prior to application. The six (6) contact hours may be completed through either in-person or through online or distance learning programs.

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STATUTORY AUTHORITY: 32 M.R.S. §§ 1451, 1501 and 1506

EFFECTIVE DATE:

December 26, 2009 – filing 2009-698

<b>Chapter 11, "General Rules"</b>	<b>Chapter 12, "Continuing Education Requirements"</b>
<p><b>Pre-APA</b></p> <p><b>EFFECTIVE DATE:</b> May 1, 1970 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service"</p> <p><b>AMENDED:</b> January 26, 1971 June 18, 1974 March 17, 1977 August 18, 1977 December 4, 1979</p> <p><b>APA</b></p> <p><b>READOPTED:</b> December 28, 1979</p> <p><b>EFFECTIVE DATE:</b> April 3, 1990 - as a Chapter entitled "General Rules."</p> <p><b>AMENDED:</b> March 1, 1997</p> <p><b>EFFECTIVE DATE (ELECTRONIC CONVERSION):</b> March 18, 1997</p> <p><b>REPEALED AND REPLACED:</b> October 29, 2001 - as "Continuing Education Requirements."</p> <p><b>NON-SUBSTANTIVE CORRECTIONS:</b> March 29, 2004</p>	<p><b>EFFECTIVE DATE:</b> December 28, 1979 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service"</p> <p><b>AMENDED:</b> September 7, 1992 - as "Continuing Education Requirement" March 1, 1997</p> <p><b>EFFECTIVE DATE (ELECTRONIC CONVERSION):</b> March 18, 1997</p> <p><b>AMENDED:</b> December 21, 1999</p> <p><b>REPEALED AND REPLACED:</b> October 29, 2001 - as Transportation of Human Remains." Former subject matter moved to Chapter 11.</p>



02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

331 MAINE STATE BOARD OF FUNERAL SERVICE

Chapter 11: ANNUAL RENEWAL; CONTINUING EDUCATION; INACTIVE STATUS

SUMMARY: This chapter describes the continuing education requirement and sets forth procedures regarding inactive status licensure.

1. Annual Renewal; Continuing Education

Licenses issued by the board are renewable annually upon application to the board and payment of the license fee required by Chapter 10, ~~Section 5(18)~~ of the rules of the Office of Licensing Professional and Registration, entitled "Establishment of License Fees," Occupational Regulation, plus any applicable late fee. ~~Practitioners of funeral service, funeral directors and funeral attendants shall certify to compliance with the continuing education requirement set forth in this chapter at time of renewal.~~

~~2. Required Hours~~

~~1. Practitioners of Funeral Service and Funeral Directors~~

~~Six (6) contact hours of approved continuing education during the preceding one-year licensing period are required for renewal of the practitioner and funeral director licenses. Licensees shall spend these hours in actual attendance at or completion of approved continuing education activities. No more than two (2) of the six (6) hours may be earned through: (a) on line, internet or distance education activities, or (b) self study activities, whether in written, audio, audiovisual or electronic form. No more than three (3) of the six (6) hours may be earned through in-service training offered by a funeral establishment only for practitioners and funeral attendants employed by the establishment. Carryover of hours from any one year licensing period to another is not permitted.~~

~~2. Funeral Attendants~~

~~Licenses renewing on or after March 1, 2011 must meet the following continuing education requirement:~~

~~Completion 1. At the time of an odd-year renewal, practitioners of funeral service shall certify to compliance with the continuing education requirement set forth in 32 M.R.S. § 1506 and this chapter.~~

2. At the time of each renewal, funeral attendants shall certify as to completion of the annual training in bloodborne pathogens and highly hazardous chemicals required by Chapter 10, Section 4(3) of the board's rules.

## 2. Approved Continuing Education Programs and Activities

1. Practitioners of funeral service may satisfy the requirement of Section 1(1) by completing:

(a) programs approved for continuing education credit by the Academy of Professional Funeral Service Practice, its successor organization or a comparable organization or;

(b) programs hosted or sponsored by the Maine Funeral Directors Association or the National Funeral Directors Association, their successor organizations or comparable organizations or;

(c) programs hosted or sponsored and approved for continuing education credit by any state funeral board or state licensing authority; or

(d) any other program that relates to the following subject areas:

(i) professional competency, professional conduct, business ethics, or legal aspects relating to funeral practice; or

(ii) techniques including scientific and clinical advances relating to embalming and funeral arranging.

## 3. Hardship Deferment

A licensee may request a deferment of continuing education from the board due to health reasons, military service or other unforeseeable circumstances of genuine hardship. Any licensee who receives a deferment shall make up the deferred continuing education according to a schedule determined by the board in consultation with the licensee.

Deferred continuing education, once completed by a licensee, may not also be used to satisfy the continuing education requirement for a license year other than the year for which the deferment was granted.

## ~~3. Approved Continuing Education Activities~~

~~Continuing education activities that relate to the following subject areas are eligible for approval pursuant to Section 5 of this chapter:~~

~~[Text applicable to license renewals effective prior to March 1, 2011]~~

- ~~1. Professional competency, professional conduct, business ethics, or legal aspects relating to the practice of the profession;~~

1. ~~Programs relating to new techniques, scientific and clinical advances and achievements in research relating to funeral directing and embalming;~~
2. ~~Programs relating to business management, personnel management, or programs helping to improve services to the consumer; and~~
3. ~~Courses, seminars, lectures, home study courses, videos or other instructional programs which meet the above qualifications and which the board determines are of benefit in improving the knowledge or service capability of licensees.~~

~~[Text applicable to license renewals effective on or after March 1, 2011]~~

4. ~~Professional competency, professional conduct, business ethics, or legal aspects relating to the practice of the profession; and~~

~~(i) New 4. techniques including scientific and clinical advances relating to embalming and funeral arranging.~~

#### ~~4. Approval of Continuing Education Activities~~

~~All continuing education activities must be approved as set forth in Section 5(1), (2) or (3) of this chapter:~~

##### ~~1. Activities Deemed Approved~~

~~The following activities are deemed approved for continuing education credit without further action of the board:~~

- A. ~~Programs approved for continuing education credit by the Academy of Professional Funeral Service Practice; and~~
- B. ~~Programs hosted/sponsored and approved for continuing education credit by any state funeral board or state licensing authority.~~

~~The board may monitor activities deemed approved for compliance with the subject matter criteria set forth in Section 4 of this chapter and for accuracy of all representations made.~~

##### ~~2. Application for Approval by Sponsor~~

~~The sponsor of a continuing education activity may apply to the board for approval of the activity. The application shall contain information pertaining to the nature and history of the sponsor, approximate dates of the activity, subject offered, total hours of presentation, plus the name and qualifications of the instructor. The application will be evaluated under the subject matter criteria contained in Section 4 of this chapter and for accuracy of all representations made. A sponsor may not represent an activity as approved for continuing education credit until approval has been conferred by the board.~~

~~If the board is unable to timely consider an application for approval, a continuing education activity may be approved by board staff following consultation with the board chair or, if the chair is unavailable, with another member of the board.~~

### ~~3. Application for Approval by Licensee~~

~~A licensee who participated in or plans to participate in a continuing education activity that has not been approved pursuant to Section 5(1) or (2) of this chapter may apply for approval to the board. The licensee shall submit a syllabus of the activity with the application and such other information as the board may require. The application will be evaluated under the subject matter criteria contained in Section 4 of this chapter and for accuracy of all representations made.~~

### 4. Documentation and Audit

It is the responsibility of each licensee to maintain records, certificates, or other evidence of compliance with the continuing education requirement. Reporting, verification and audit of continuing education is governed by Chapter 13 of the rules of the ~~Department~~Office of ~~the~~ Professional and ~~Financial~~Occupational Regulation, ~~Office of Licensing and Registration, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements."~~

### 5. Inactive Status Licensure

#### 1. Application and Renewal

A practitioner of funeral service ~~or funeral director~~ may apply for an inactive status license. A licensee who applies for inactive status during the 3 months prior to expiration of the license shall demonstrate compliance with the continuing education requirement license year during which application is made. The board may refuse to issue an inactive status license to a licensee who:

- A. Is ineligible for renewal of an active license; or
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#### 2. Prohibition Against Practice

A licensee may not engage in the practice of funeral service while in inactive status.

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A licensee need not comply with the continuing education requirement contained in Chapter 11 of the board's rules while in inactive status.

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- A. Submitting a renewal application;
- B. Paying the license fee required by Chapter 10, ~~Section 5(18)~~ of the rules of the Office of ~~Licensing Professional and Registration, entitled~~ “Establishment of License Fees Occupational Regulation;” and
- C. Providing such other information as the board may require.

5. Reinstatement to Active Status

The holder of an inactive status license may return to active status upon application to the board, payment of the required license or reinstatement fee, and certification of completion of six (6) contact hours of continuing education during the one-year period prior to application. The six (6) contact hours may be completed through either in-person or through online or distance learning programs.

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STATUTORY AUTHORITY: 32 M.R.S. ~~A. §§ §§~~ 1451, 1501 and 1506

EFFECTIVE DATE:

December 26, 2009 – filing 2009-698

~~Note: former Chapters 11 and 12~~

<b>Chapter 11, "General Rules"</b>	<b>Chapter 12, "Continuing Education Requirements"</b>
<p><b>Pre-APA</b></p> <p><b>EFFECTIVE DATE:</b> May 1, 1970 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service"</p> <p><b>AMENDED:</b> January 26, 1971 June 18, 1974 March 17, 1977 August 18, 1977 December 4, 1979</p> <p><b>APA</b></p> <p><b>READOPTED:</b> December 28, 1979</p> <p><b>EFFECTIVE DATE:</b> April 3, 1990 - as a Chapter entitled "General Rules."</p> <p><b>AMENDED:</b> March 1, 1997</p> <p><b>EFFECTIVE DATE (ELECTRONIC CONVERSION):</b> March 18, 1997</p> <p><b>REPEALED AND REPLACED:</b> October 29, 2001 - as "Continuing Education Requirements."</p> <p><b>NON-SUBSTANTIVE CORRECTIONS:</b> March 29, 2004</p>	<p><b>EFFECTIVE DATE:</b> December 28, 1979 - all board rule language part of Chapter 1, "Rules of Maine State Board of Funeral Service"</p> <p><b>AMENDED:</b> September 7, 1992 - as "Continuing Education Requirement" March 1, 1997</p> <p><b>EFFECTIVE DATE (ELECTRONIC CONVERSION):</b> March 18, 1997</p> <p><b>AMENDED:</b> December 21, 1999</p> <p><b>REPEALED AND REPLACED:</b> October 29, 2001 - as Transportation of Human Remains." Former subject matter moved to Chapter 11.</p>