

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2023 to December 31, 2023**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)*

**Agency name:** Department of Professional and Financial Regulation,  
Office of Professional and Occupational Regulation,  
**Board of Funeral Service**

**Umbrella-Unit:** **02-331**

**Statutory authority:** 32 MRS §§ 1451, 1501 and 1506

**Chapter numbers/titles:** **Ch. 11**, Annual Renewal; Continuing Education; Inactive Status

**Filing numbers:** **2023-010**

**Effective date:** 1/22/2023

**Type of rules:** Routine Technical

**Emergency rule:** No

**Principal reason or purpose for rules:**

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 MRS § 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.

**Basis statement:**

The Maine State of Funeral Service (the “Board”) is charged by the Legislature with the regulation of funeral practitioners, trainees and funeral attendants in the State of Maine for the sole purpose of protecting the public health and welfare 10 MRS § 8008. The Legislature granted the Board rulemaking authority pursuant to 32 MRS § 1451.

The rulemaking amends the following chapter:

Chapter 11: Annual renewal; Continuing Education; Inactive Status

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 MRS § 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.

**Fiscal impact of rules:**

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

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2023 to December 31, 2023**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)*

**Agency name:** Department of Professional and Financial Regulation,  
Office of Professional and Occupational Regulation  
**Maine Board of Funeral Service**

**Umbrella-Unit:** **02-331**

**Statutory authority:** 32 M.R.S. §§ 1451 and 1501; P.L. 2021, c. 268

**Chapter numbers/titles:** **Ch. 12**, Transportation of Human Remains

**Filing numbers:** **2023-133**

**Effective date:** 9/23/2023

**Type of rules:** Major Substantive

**Emergency rule:** No

**Principal reason or purpose for rules:**

Following a public hearing held on July 12, 2022 and a comment period ending on July 29, 2022, the Board voted at its September meeting to provisionally adopt the proposed major substantive rule titled Chapter 12, Transportation of Human Remains. Subsequently and during the review required by 5 M.R.S. § 8052(7)(B) and § 8056(1)(A), it was determined that the section of Federal Motor Carrier Safety Regulations referenced in the second paragraph of Section 4, subsection D of the rule would need to be fully incorporated by reference pursuant to 5 M.R.S. § 8056(1)(B).

In response to that specific finding, and pursuant to 5 M.R.S. § 8052(5)(B), the Board is soliciting comments from the public regarding its proposal to remove this reference to federal regulation altogether. The Board had intended the citation to the federal regulation to be a helpful and educational reference, and based on the information it has received that to include the reference in the rule would require incorporating the provision entirely, proposes to omit the reference to Federal Motor Carrier Safety Regulations section 393.102. The other proposed changes are technical changes to correct minor errors.

**Basis statement:**

The Maine State Board of Funeral Service (the “Board”) is charged by the Legislature with the regulation of practitioners of funeral service, practitioner trainees, funeral attendants, and funeral establishments in the State of Maine for the sole purpose of protecting the public health and welfare. The Legislature granted the Board rulemaking authority pursuant to 32 M.R.S. § 1451.

The proposed rulemaking would repeal and replace the following chapter:

Chapter 12: Transportation of Human Remains

This major substantive rulemaking was developed as a result of LD 1214 (enacted by the 130th Legislature and signed into law as P.L. 2021, c. 268) which directed the Board of Funeral Service to collaborate with stakeholders to develop a rule governing the safety of drivers and passengers of vehicles owned, leased or otherwise used by a practitioner of funeral service or a funeral establishment for the transport of human remains. A stakeholder group met on three (3) separate occasions and consisted of individuals with various areas of expertise including a practitioner of funeral service, a representative of the Department of Transportation with expertise in cargo transportation, a representative of the State Police, and a representative of the insurance industry. The stakeholder group issued a report that was used to develop a draft rule that was presented to the Board for its consideration. The proposed rule was the result of both the stakeholder process and the Board’s input.

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2023 to December 31, 2023**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)*

The Board held a public hearing on July 12, 2022 at 9:00 a.m., to take oral comments, and continued to accept written comments through 5:00 pm on July 29, 2022.

Following a public hearing held on July 12, 2022 and a comment period ending on July 29, 2022, the Board voted at its September meeting to provisionally adopt the proposed major substantive rule titled Chapter 12, Transportation of Human Remains. Subsequently and during the review required by 5 M.R.S. § 8052(7)(B) and § 8056(1)(A), it was determined that the section of Federal Motor Carrier Safety Regulations referenced in the second paragraph of Section 4, subsection D of the rule would need to be fully incorporated by reference pursuant to 5 M.R.S. § 8056(1)(B).

In response to that specific finding, and pursuant to 5 M.R.S. § 8052(5)(B), the Board solicited additional comments from the public regarding its proposal to remove this reference to federal regulation altogether. The Board had intended the citation to the federal regulation to be a helpful and educational reference, and based on the information it has received that to include the reference in the rule would require incorporating the provision entirely, proposes to omit the reference to Federal Motor Carrier Safety Regulations section 393.102. The other proposed changes were technical changes to correct minor errors.

Notice of the proposed rulemaking was published in the Maine Secretary of State weekly notice on June 22, 2022 and again on November 16, 2022, in newspapers on June 22, 2022, and November 16, 2022, and uploaded to the Board of Funeral Service webpage on June 17, 2022 and November 14, 2022. The stakeholder group; along with interested parties were emailed a copy of the rulemaking package on June 17, 2022 and again on November 14, 2022. The Fact Sheet was filed with the Legislative Council on June 14, 2022 and again on November 9, 2022. The sponsor of the bill was sent a copy of the proposed rulemaking on June 15, 2022 and again on November 9, 2022.

The rule was provisionally adopted by the Board on January 3, 2023 and sent to the Legislature for review pursuant to 5 M.R.S. § 8072(3). The provisionally adopted rule was presented through LD 374, which after being approved by the Legislature was signed into law by the Governor on June 1, 2023 as Resolve 2023, c. 20. The Board voted for final adoption at board meeting on July 11, 2023.

**Fiscal impact of rules:**

None anticipated with regards to the proposed change to eliminate a reference to a federal regulation.