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Legislative Agenda 2023-2024

Founded in 1881, The Wisconsin Funeral Directors Association (WFDA) is the largest state trade association assisting funeral service professionals in Wisconsin. WFDA represents and supports funeral service professionals licensed in Wisconsin through continuing education, networking, advocacy, and promoting the high professional standards of its members in providing meaningful funeral services to the families they serve.

We are committed to making sure the regulatory environment for our members is stable. Since our inception, WFDA members have been sharing their support for or concerns with Wisconsin statutes and administrative rules that impact our profession.

The following policy statements encompass WFDA's agenda for the 2023-2024 legislative session.

- **Ensure competition for funeral services: Support current anti-combination law for funeral homes and cemeteries.**
- **Support enforcement of Wisconsin's winter burial statute.**
- **Support utilizing technology for cremation permit viewing.**
- **Support for Legislative Council Study Committee on Uniform Death Reporting Standards.**
- **Support more disclosure to families regarding anatomical gifts.**

Ensure competition for funeral services: Support current anti-combination law for funeral homes and cemeteries.

Wisconsin law prevents funeral homes and cemeteries from holding an ownership stake in one other. This law was first enacted in 1933 to protect Wisconsin consumers from anti-competitive behavior which could exist under joint cemetery-funeral home ownership. The “anti-combo” law protects consumers from the decreased quality, inflated prices, and diminished services that can arise due to cemetery/funeral combination firms.

The existing law encourages competition between cemetery operators and funeral directors in the products that death care consumers purchase in their time of need. Without anti-combo laws, death care conglomerates could move into Wisconsin, purchase controlling interests in large cemeteries and small family-run funeral homes, close out competition, and ultimately increase prices on funeral and cemetery products and services. This is bad for Wisconsin consumers who do not need additional burdens while they are grieving a loved one.

The anti-combo law has been repeatedly upheld and defended by multiple Wisconsin attorneys general, courts, and legislatures. As far back as 1946, the attorney general recognized the need to protect the public from kickback agreements between cemeteries and funeral homes which would result in “acquiring an interest adverse to their clients.”

Support enforcement of Wisconsin’s winter burial statute.

Wisconsin law requires “that a cemetery authority shall, insofar as practicable, provide for burials during each season, including winter” (Wis. Stat. § 157.114). The statute also allows a cemetery authority to “charge a reasonable fee to recover the costs related to providing a burial during difficult winter weather conditions.”

Some cemeteries, mostly located in rural northern parts of the state, are making it difficult to bury in winter. In some cases, the cemetery may close entirely for a set period. This violation of the law requires funeral directors and families to find suitable storage for a decedent until the time of burial which, in rural Wisconsin, can be quite difficult.

Today there is little recourse when a cemetery refuses to comply as the statute is silent on enforcement. WFDA supports a solution that will be a compromise with cemeteries and funeral directors to create stronger enforcement for winter burials as originally intended by the law.

Support utilizing technology for cremation permit viewing.

Wis. Stat. § 970.10 states: “No person may cremate a human corpse unless the person has received a cremation permit from the appropriate county coroner or medical examiner.” In almost all cases, the “appropriate” coroner or medical examiner is from the county where an individual died.

Before a cremation permit is provided, the coroner in the county of death is responsible for making “a careful personal inquiry into the cause and manner of death and conduct an autopsy or order the conducting of an autopsy, if in his or her or the district attorney’s opinion it is necessary to determine the cause and manner of death. If the coroner or medical examiner determines that no further

examination or judicial inquiry is necessary, he or she shall certify that fact.” Following this certification, the body can then be cremated.

These requirements make sense, but the standards utilized across counties in Wisconsin vary significantly as to how a medical examiner or coroner complies with this statute. Despite the technology available today, the cremation statute is silent on whether video/visual technology can satisfy the requirement to view the body.

Support for Legislative Council Study Committee on Uniform Death Reporting Standards.

The 2022 Legislative Council Study Committee on Uniform Death Reporting Standards was “directed to review the current protocols for investigating causes of death and reporting death, and the uniformity of those protocols.” The review “focused on options to implement more comprehensive uniform death reporting standards across Wisconsin, including the advantages and barriers to implementation of such standards.” The committee worked to “develop legislation to provide minimum requirements for death investigations and reporting.”

As part of its review, the committee heard testimony from funeral directors on how they are involved in the signing and filing of death certificates and how transfer orders and cremation permits work. They also shared their experiences with further collection of data. WFDA was happy to be a resource to the committee and will be supportive of legislative recommendations that will improve and simplify the administration of death investigations and reporting.

Support more disclosure to families regarding anatomical gifts.

WFDA proudly supports organ donation and the procurement of anatomical gifts. Organ donation provides life-saving opportunities for recipients and the procurement of anatomical gifts allows for research into many life-threatening diseases.

What is less well known about these services is their level of invasiveness. With simple organ donation, a small incision is made, the organ is removed, and the decedent is stitched back up as they would have been were they alive. With anatomical gifts, the process can be much more involved, and we believe families should be adequately informed.

Current law requires that a decedent’s family be informed of its options for donation, including the option to say no [Wis. Stat. § 157.06(14m)]. The procurement agency must use “discretion and sensibility with respect to the circumstances, views and beliefs of the family of the donor.” While we understand that using discretion with a grieving family is important, we also believe that the family must understand the full scope of what is happening to their loved one. We believe that the family must understand what is being taken, how long the process will take, and how what is taken could affect the services the family may wish to have for their loved one. Some of these procedures can create a more challenging preparation and embalming, causing poor results. Even though funeral directors are not part of the donation process, the family loses faith in the funeral home that is navigating the process on their behalf.

WFDA would request that state statute require a decedent’s family receive full disclosure about the procurement of anatomical gifts.