

BEFORE THE BOARD OF FUNERAL SERVICE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.147.302 funeral service)
definitions, 24.147.403 inspections –)
mortuaries, branch establishments,)
and crematories, 24.147.408)
transportation and custody of human)
remains, 24.147.501 out-of-state)
mortician licenses, 24.147.901)
mortuary and branch establishment)
operation standards, 24.147.904)
mortuary and branch establishment)
licenses and temporary permits,)
24.147.1101 crematory licenses,)
temporary permits, and operation)
standards, 24.147.2101 continuing)
education requirements – morticians,)
24.147.2301 unprofessional conduct,)
the amendment and transfer of ARM)
24.147.402 (24.147.507) mortician)
licenses, 24.147.405 (24.147.509))
examinations, 24.147.903 (24.147.407))
name change, closure, transfer, or sale)
– mortuary, branch establishment,)
crematory, or cemetery, the adoption of)
NEW RULE I change of mortician-in-)
charge or crematory operator-in-)
charge, NEW RULE II nonlicensed)
personnel, and the repeal of ARM)
24.147.2102 sponsors)

TO: All Concerned Persons

1. On December 8, 2017, the Board of Funeral Service (board) published MAR Notice No. 24-147-39 regarding the public hearing on the proposed amendment, amendment and transfer, adoption, and repeal of the above-stated rules, at page 2251 of the 2017 Montana Administrative Register, Issue No. 23.

2. On January 4, 2018, a public hearing was held on the proposed amendment, amendment and transfer, adoption, and repeal of the above-stated rules in Helena. Two comments were received by the January 5, 2018, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Section 50-15-405, MCA, which is referenced in ARM 24.147.408(1), also allows advanced practice registered nurses to authorize removal from the place of death. A typographical error was made by omitting that language from the proposed rule and the board should amend the rule to align with the statutory language.

RESPONSE 1: The board agrees and is amending the rule accordingly.

COMMENT 2: An incorrect statute is referenced in ARM 24.147.408(5). "Authorizing agent" is not defined in 50-15-101, MCA. Rather, it is actually defined in 37-19-101, MCA. The board should correct this error and amend the rule so the proper statute is referenced in (5).

RESPONSE 2: The board agrees and is amending the rule accordingly.

4. The board has amended ARM 24.147.302, 24.147.403, 24.147.501, 24.147.901, 24.147.904, 24.147.1101, 24.147.2101, and 24.147.2301 exactly as proposed.

5. The board has amended and transferred ARM 24.147.402 (24.147.507), 24.147.405 (24.147.509), and 24.147.903 (24.147.407) exactly as proposed.

6. The board has adopted New Rules I (24.147.409) and II (24.147.410) exactly as proposed.

7. The board has repealed ARM 24.147.2102 exactly as proposed.

8. The board has amended ARM 24.147.408 with the following changes, stricken matter interlined, new matter underlined:

24.147.408 TRANSPORTATION AND CUSTODY OF HUMAN REMAINS

(1) Authorization to remove and transport a body from place of death must be made by a physician, physician designee, advanced practice registered nurse, coroner, or mortician per 50-15-405, MCA.

(2) through (4) remain as proposed.

(5) An authorizing agent, as defined in ~~50-15-101~~ 37-19-101, MCA, can only delegate the activities set forth in (4) to a mortician employed by a mortuary.

BOARD OF FUNERAL SERVICE
JOHN TARR, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 13, 2018.