

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.147.302 funeral service)	PROPOSED AMENDMENT,
definitions, 24.147.403 inspections –)	AMENDMENT AND TRANSFER,
mortuaries, branch establishments,)	ADOPTION, AND REPEAL
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 January 4, 2018, at 9:30 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, amendment and transfer, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Funeral Service (board) no later than 5:00 p.m., on December 27, 2017, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Funeral Service, 301 South Park

Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdfnr@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the rulemaking process, the board determined it is reasonably necessary to rename and reorganize some existing subchapters, and transfer some of the amended rules to different subchapters. This reorganization will make it easier for licensees and the public to identify and locate rules.

Additionally, the board is updating the authority and implementation citations throughout to accurately reflect all statutes implemented through the rules and provide the complete sources of the board's rulemaking authority.

Any additional and more specific reasons for proposed changes will be identified immediately following each rule.

4. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.147.302 FUNERAL SERVICE DEFINITIONS As used in this chapter, the following definitions apply:

~~(1) "Funeral goods" means personal property typically sold or provided in connection with a funeral or the final disposition of human remains, including, but not limited to, caskets or other primary containers, cremation or transportation containers, outer burial containers, vaults, funeral clothing or accessories, monuments, cremation urns, and similar funeral or burial items.~~

~~(2) "Funeral services" means those services typically provided in connection with a funeral, or the final disposition of human remains, including, but not limited to, funeral directing services, embalming services, care of human remains, preparation of human remains for final disposition, transportation of human remains, use of facilities or equipment for viewing human remains, visitation, memorial services or services which are used in connection with a funeral or the disposition of human remains, coordinating or conducting funeral rites or ceremonies and similar funeral or burial services.~~

(1) "Change in ownership" means when more than 50 percent of the equitable ownership of a mortuary, branch establishment, crematory, or cemetery is transferred to one or more persons or any other legal entity, in a single transaction or in a related series of transactions.

(2) "Crematory operator-in-charge" means the Montana licensed crematory operator, as described in 37-19-101 and 37-19-702, MCA, who accepts responsibility for the operation of a crematory in conformance with all laws and rules pertinent to operation of the crematory. The crematory operator-in-charge:

(a) is personally in full and actual charge of the crematory; and

(b) assures the crematory and all crematory personnel working in the crematory have current and appropriate licensure.

~~(3) "Guaranteed price agreement" means a prepaid funeral agreement under which, in exchange for the proceeds of a funeral trust or funeral insurance policy, the provider agrees to provide the stated funeral goods and services in the future,~~

~~regardless of whether or not the retail value of those services and funeral goods exceeds the funds available from the funeral trust or funeral insurance policy at the time of death of the intended funeral recipient.~~

~~(4) (3) "Hazardous implants implant" is defined as being means any foreign object or substance that has been surgically or otherwise placed in the human body that may present a threat of injury to the public or the crematory operator, or to the crematory retort or related equipment, during the cremation process, ~~or to the public.~~~~

~~(5) remains the same but is renumbered (4).~~

~~(5) "Mortician-in-charge" means a Montana-licensed mortician who accepts responsibility for the operation of a mortuary in conformance with all laws and rules pertinent to the practice of mortuary science. The mortician-in-charge:~~

~~(a) is personally in full and actual charge of the mortuary;~~

~~(b) assures the mortuary and all mortuary personnel working in the mortuary have current and appropriate licensure; and~~

~~(c) is responsible for the supervision of nonlicensed personnel as defined in these rules.~~

~~(6) "Nonguaranteed price agreement" means a prepaid funeral agreement funded with a funeral trust or funeral insurance policy, the proceeds of which the provider will apply to the current retail value of the prepaid funeral goods and services previously selected at the time of death of the intended funeral recipient, but which agreement shall not bind the provider to provide the services and funeral goods if the value thereof exceeds the funds available at the time of death of the intended funeral recipient.~~

~~(6) "Nonlicensed personnel" means any person employed by a licensed mortuary or mortuary branch establishment who is not licensed as a mortician or intern.~~

~~(7) "Permit" as referred to as referenced in 37-19-814, MCA, is defined to be synonymous with "license" for purposes of this chapter in the context of cemetery permits issued by the board under these rules.~~

~~(8) "Preneed funeral arrangement" or "preneed funeral agreement" means arrangements made with a licensed funeral director or licensed mortician by a person on the person's own behalf or by an authorized individual on the person's behalf prior to the death of the person.~~

~~(9) (8) "Prepaid funeral agreement" as further clarified in these rules means a written agreement and all documents related thereto made by a purchaser with a provider for preneed funeral arrangements which is made between a purchaser and provider prior to the death of the intended funeral recipient, ~~with which there is connected a provisional means of paying for preneed funeral arrangements upon the death of the intended funeral recipient by the use of a funeral trust or funeral insurance policy, made payable to a provider and in return for which the provider promises to furnish, make available or provide the prepaid funeral goods or services, or both, specified in the agreement, the delivery of which occurs after the death of the intended funeral recipient.~~~~

~~(10) (9) "Prepaid funeral goods" means funeral goods purchased in advance of need and which will not be delivered until the death of the intended funeral recipient named in a prepaid funeral agreement. Prepaid funeral goods shall do not mean the sale of interment spaces offered or sold by a cemetery company.~~

(10) "Prepaid funeral services" means funeral services which are purchased in advance of need and which will not be provided or delivered until the death of the intended funeral recipient named in a prepaid funeral agreement. Prepaid funeral services ~~shall~~ does not mean the sale of services incidental to the provision of interment spaces offered or sold by a cemetery company.

(11) "Price agreement" means a prepaid funeral agreement funded with a funeral trust or funeral insurance policy. The two types of price agreements are as follows:

(a) "guaranteed price agreement" means that the provider will provide the selected funeral goods and services in exchange for the proceeds of a funeral trust or funeral insurance policy. The agreement binds the provider to provide the selected funeral goods and services regardless of whether or not the current retail value of those services and funeral goods exceeds the funds available from the funeral trust or funeral insurance policy at the time of death of the intended funeral recipient; and

(b) "nonguaranteed price agreement" means the provider will apply the proceeds of the funeral trust or funeral insurance policy to the current retail value of the selected funeral goods and services at the time of death of the intended funeral recipient. The agreement does not bind the provider to provide the services and funeral goods if the current value of those funeral goods and services exceeds the funds available at the time of death of the intended funeral recipient.

(12) "Provider" means a licensed mortician or the licensed mortuary ~~by whom~~ the where the licensed mortician is employed, that is providing or offering to provide at-need, preneed, or prepaid funeral arrangements, and/or funeral goods or services.

(13) "Purchaser" means the person named in a prepaid funeral agreement who purchases the prepaid funeral goods and services to be provided ~~thereunder~~ per the agreement. The purchaser may or may not be the intended funeral recipient. If the purchaser is different than the intended funeral recipient, it is understood ~~that~~ the relationship of the purchaser to the intended funeral recipient includes a means to provide administrative control over the agreement on behalf of the intended funeral recipient.

(14) "Supervision of nonlicensed personnel" means:

(a) regular and direct oversight and guidance of duties directed by the mortician-in-charge; and

(b) the mortician-in-charge's acceptance of responsibility for the work.

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, 37-19-101, 37-19-402, 37-19-702, 37-19-705, 37-19-814, 37-19-827, 37-19-828, 37-19-829, MCA

REASON: The board determined it is reasonably necessary to add several definitions to this rule regarding supervision of unlicensed personnel. While the board currently uses both "mortician-in-charge" and "crematory operator-in-charge," these terms were not previously defined in rule. Since mortuaries and branch facilities employ nonlicensed staff, it is necessary to define certain terms to clarify the supervision of those persons as these terms are used throughout this chapter.

The board is placing the definition of "change in ownership" in this rule instead of duplicating the term in multiple rules.

The board is striking "funeral goods" and "funeral services" as these are already defined in Federal Trade Commission regulations which the board has adopted by reference in ARM 24.147.406. Additionally, the board is striking "preneed funeral arrangements" as the term is defined in 37-19-101, MCA.

The board is adding the definition of "price agreement" at (11) to incorporate the clarifying terms "guaranteed price agreement" and "nonguaranteed price agreement" previously defined at (3) and (6).

It is reasonably necessary to further amend definitions in this rule to remove outdated, redundant, and unnecessary provisions and add clarifying language where needed to address questions, and provide consistency, simplicity, better organization, and ease of use for licensees.

24.147.403 INSPECTIONS – MORTUARIES, BRANCH ESTABLISHMENTS, AND CREMATORIES MORTUARY TRANSFERS, INSPECTIONS, AND TEMPORARY PERMITS (1) A board-designated inspector will conduct annual on-site inspections of all existing licensed mortuaries, branch establishments, and crematories for compliance with board regulations.

(a) Inspections may be conducted with or without advance notice to the licensee.

(b) Results of the inspection will be provided to the licensee.

(c) If there are any items of noncompliance, the mortician-in-charge or crematory operator-in-charge must submit a written response to the board which addresses those items of noncompliance. The response must be received by the board within ten days of the licensee receiving notification of noncompliance.

(d) A report of significant noncompliance will be reviewed by the board screening panel per the department's standard compliance process.

(2) The following inspection process applies to applicants for licensure as a mortuary or branch establishment per ARM 24.147.904 or a crematory per ARM 24.147.1101, and applicants for transfer of an existing mortuary, branch establishment, or crematory license per ARM [24.147.407].

(a) Applicants must pass an initial inspection of the facility by a board-designated inspector prior to a license being issued.

(b) Results of the inspection will be provided to the licensee.

(c) If there are any items of noncompliance, the mortician-in-charge or crematory operator-in-charge must submit a written response to the board which addresses those items of noncompliance. The response must be received by the department within ten days of receiving notification of noncompliance.

(d) If issues of noncompliance are not corrected within ten days, a report of noncompliance will be reviewed by the board at the next regularly scheduled board meeting following the initial inspection. For good cause the board may order a re-inspection, the costs of which will be paid by the applicant.

~~(1) Upon receipt of a completed application for a new mortuary license and accompanying fee, the department shall inspect the mortuary for compliance with board laws and rules.~~

~~(a) Except as provided in (3), a "new" mortuary, for the purposes of this rule, includes newly constructed mortuaries and existing mortuaries acquired by new owners, whether by sale or devise.~~

~~(b) Except upon issuance of a temporary license, the new mortuary may not operate until the board deems the mortuary and its operations to be in substantial compliance with board laws and rules after review of the application and inspection report.~~

~~(c) The applicant may apply for and receive a temporary license from the department provided there is no reason to deny the license under 37-1-316, MCA, or board rules defining unprofessional conduct. The mortuary may operate under the temporary permit until the board grants a license or issues an interim summary suspension order if warranted, or final order to deny it.~~

~~(d) The department inspector shall provide a written inspection report to the licensee in charge of the mortuary and to the board office.~~

~~(e) The licensee in charge of the mortuary shall submit to the board office a written response to all items of noncompliance no later than ten business days after the inspection.~~

~~(f) The board shall review all inspection reports indicating noncompliance, and any responses to the inspection at the next regularly scheduled board meeting after the inspection. For good cause, the board may request a reinspection; the costs of which shall be paid by the applicant prior to issuance of a permanent license.~~

~~(2) A mortuary under new ownership shall comply with the notification provisions at ARM 24.147.903 and provide a signed statement of relinquishment of license from the previous owner.~~

~~(3) The owner of a mortuary may transfer a mortuary license to a different mortuary and maintain the same license number only when terminating services at the former mortuary, upon submission of an application for transfer with the new information pertaining to the mortuary and applicable fees.~~

~~(a) The same process for obtaining a temporary permit, inspection, and approval set forth in (1)(b) through (f) applies to applications for a mortuary transfer.~~

~~(b) In the case of license transfers, staff shall link the license history of the former mortuary location to the new mortuary location.~~

~~(4) The department shall conduct annual mortuary inspections with or without advanced notice for compliance with board laws and rules, following the same steps outlined in (1)(d) through (f), except that the screening panel will review reports of significant noncompliance referred to it by the board, and determine whether further investigation or disciplinary action is warranted.~~

AUTH: 37-1-131, 37-19-202, 37-19-403, MCA

IMP: 37-1-131, 37-19-402, 37-19-403, 37-19-703, 75-10-1001, 75-10-1002, 75-10-1003, 75-10-1004, 75-10-1005, 75-10-1006, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the various types of inspections and associated processes for mortuaries, branch establishments, and crematories. Through these amendments, the board

will address questions and locate all inspection provisions in one rule since the general process is identical for all license types.

Additionally, the board is relocating all license application provisions from this rule to the appropriate individual application rules for mortuaries, branch establishments, and crematories.

It is reasonably necessary to further amend this rule to remove outdated, redundant, and unnecessary provisions and add clarifying language where needed to address questions, and provide consistency, simplicity, better organization, and ease of use for licensees.

24.147.408 TRANSPORTATION AND CUSTODY OF HUMAN REMAINS

~~(1) Upon authorization specified at 50-15-405, MCA, Authorization to remove and transport a body from place of death must be made by a physician, physician designee, coroner, or mortician per 50-15-405, MCA to remove and transport human remains, only a coroner, mortician, or person who is properly trained and for whose actions the mortician-in-charge will be responsible may transport the body to either a mortuary, coroner's morgue, or, in cases in which direct cremation or burial is legally permissible and authorized, directly to a crematory or cemetery.~~

(2) Once removal is authorized, only a coroner, mortician, or nonlicensed personnel under the supervision of the mortician-in-charge may transport the body.

(3) The body must be transported:

(a) to a mortuary;

(b) to a coroner's morgue; or

(c) directly to a crematory or cemetery in cases in which direct cremation or burial is legally permissible and authorized.

~~(2) (4) Nothing in these rules shall be construed to~~ These rules do not apply to transportation, custody, preparation, funeral arrangements, or disposition carried out individually by an authorizing agent, subject to such agent's compliance with all applicable state and local laws and regulations, including, but not limited to:

(a) and (b) remain the same.

~~(3) (5) In no case may an~~ An authorizing agent, as defined in 50-15-101, MCA, can only delegate the activities set forth in ~~(2) (4), unless~~ to a mortician employed by a mortuary.

AUTH: 37-19-202, 37-19-703, MCA

IMP: 37-19-101, ~~37-19-301, 37-19-302,~~ 37-19-703, 37-19-704, ~~50-15-405,~~
MCA

REASON: It is reasonably necessary to amend terminology to align with the new definition of "nonlicensed personnel" in ARM 24.147.302. The changes also clarify that the mortician-in-charge is ultimately responsible for supervising nonlicensed personnel.

The board is also amending this rule for better organization, clarity, and ease of use for the reader, and to comply with ARM formatting requirements.

24.147.501 LICENSURE OF OUT-OF-STATE MORTICIAN LICENSES

APPLICANTS (1) Applicants for licensure as morticians who are currently licensed

in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

~~(1) Upon submission of a completed application containing the affirmations in (2) and (3) of this rule and payment of the proper license fee, the board staff may issue a license to a person if, at the time of application:~~

~~(2) Applicants must:~~

~~(a) the applicant holds hold a current, active license in good standing in another state or jurisdiction to practice under a funeral ~~services~~ service scope of practice recognized in Montana. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;~~

~~(b) the applicant has a license based on standards in another state whose standards at the time of application to this state are substantially equivalent to Montana standards; and~~

~~(c) there is no reason to deny the license under 37-1-137 and 37-1-316, MCA, or board rules defining unprofessional conduct, or for staff to determine the application to be nonroutine.~~

~~(b) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction;~~

~~(c) have been actively engaged in practice during the period of licensure for five of the last seven years, or have passed the national examination within the timeframe described in ARM [24.147.509]; and~~

~~(d) pass the state jurisprudence examination as described in ARM [24.147.509].~~

~~(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.~~

~~(2) As provided by 37-1-304, MCA, the applicant shall affirm whether the applicant has requested verification of the applicant's current license or licenses in good standing to be sent directly to the board office from all other states in which the licensee holds or has ever held any type of professional or occupational license.~~

~~(3) The applicant shall affirm whether the applicant has been actively engaged in the practice during the period of licensure in another state. If not actively engaged in practice as a mortician in five of the last seven years from the date of the application, the applicant must provide proof of successful completion of the national examination on a date within five years prior to the date of application, sent directly from the Conference to the board office.~~

~~(4) All applicants for licensure under this rule must pass the Montana jurisprudence examination.~~

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, ~~37-1-137~~, 37-1-304, ~~37-1-316~~, 37-19-302, MCA

REASON: The board is amending this rule to relocate all examination provisions from this rule to ARM 24.147.509, the examination rule that is proposed to be transferred from ARM 24.147.405 in this notice. The board is adding (3) regarding

application expiration to align with current standardized department procedures for license application processing.

The board determined it is reasonably necessary to amend (1) and (2) to allow licensure of applicants licensed in other jurisdictions, as well as other U.S. states. Because licensure of out-of-state applicants requires standards substantially equivalent to Montana's, the board concluded there is no reason to exclude applicants from comparable jurisdictions such as Canadian provinces.

The board is also amending this rule for better organization, clarity, and ease of use for the reader, and to comply with ARM formatting requirements.

24.147.901 MORTUARY AND BRANCH ESTABLISHMENT OPERATION STANDARDS (1) A mortuary or branch establishment cannot operate unless:
(a) a license or temporary permit has been issued to the current owner; and
(b) there is a designated mortician-in-charge as per these rules. The board must be notified of any change of mortician-in-charge per the requirements of [NEW RULE I].

(2) To qualify for licensure as a mortuary or branch establishment, applicants must meet the minimum licensing requirements described in these statutes and rules. Minimum licensing requirements include the operation standards in (3) through (8) of this rule and ARM 24.147.904.

(4) (3) A Mortuary and branch establishment preparation room shall rooms must be maintained in a clean and sanitary condition at all times and meet the following minimum requirements:

(a) through (c) remain the same.

(d) restricted access to persons authorized by a licensed mortician or intern and a clearly labeled entrance as "private," "authorized persons only," or "no admittance";

(e) through (i) remain the same.

(4) A branch establishment with no preparation room may not prepare dead human bodies. The only authorized activities that may occur in a branch establishment without a preparation room include:

(a) making at-need and preneed funeral arrangements;

(b) viewing; and

(c) funeral services.

(2) (5) The preparation Preparation of human remains for final disposition, such as washing, disinfecting, embalming, removing hazardous implants, dressing, and casketing must only be performed in a preparation room of a licensed mortuary or mortuary branch establishment. with a preparation room, except The only exception is that washing, dressing, and casketing may be provided by a person with the right of disposition in under 37-19-904, MCA.

(3) Unless requested by a consumer making the initial contact to make funeral arrangements at a place other than the mortuary or mortuary branch, funeral arrangements, both pre- and at-need, may only be performed in a licensed mortuary or mortuary branch.

(4) The mortuary shall designate a mortician-in-charge of the mortuary and within ten days provide written notice to the board of any change in the designation.

~~(5) The mortuary shall display the facility and personal licenses of licensed staff in plain view for members of the public to view. Personal addresses on licenses may be covered.~~

(6) Funeral arrangements, including preneed and at-need, can only be made in a licensed mortuary or branch establishment unless the consumer making the initial contact requests otherwise.

(7) Mortuaries and branch establishments must display the facility license and licenses of all licensed staff in a conspicuous place so they can be seen by members of the public. Personal addresses on licenses may be covered.

~~(6) (8) The mortuary shall~~ Mortuaries and branch establishments must obtain and maintain for inspection all applicable local, state, and federal permits or licenses, including, but not limited to, those relating to:

(a) business;

(b) zoning;

(c) building codes (including plumbing, electrical, and mechanical);

(d) air quality; and

(e) water quality.

~~(7) (9) The mortuary shall conduct staff training in and require the~~ The handling and disposal of all medical, hazardous, or infectious waste must be in accordance with federal, state, and local laws and regulations, including, but not limited to, the:

(a) OSHA Bloodborne Pathogen Standard, 29 CFR 1910.1030;

(b) Hazard Communication Standard, 29 CFR 1910.1200;

(c) Personal Protective Equipment Standard, 29 CFR 1910.132;

(d) U.S. Department of Transportation Hazardous Material Regulations, 49 CFR Part 171; and

(e) Hazardous Waste Management and Infectious Waste Management Acts, Title 75, chapter 10, parts 4 and 10, MCA.

AUTH: 37-19-202, 37-19-403, ~~75-10-1006~~, MCA

IMP: 37-19-101, 37-19-401, 37-19-402, 37-19-403, 37-19-904, ~~75-10-424~~, ~~75-10-1001~~, ~~75-10-1002~~, ~~75-10-1003~~, ~~75-10-1004~~, ~~75-10-1005~~, ~~75-10-1006~~, MCA

REASON: The board is amending this rule to be the single location for all mortuary and branch facility operation standards by incorporating the branch facility standards from ARM 24.147.904. These amendments will also improve organization and eliminate unnecessary duplication between these two rules.

It is reasonably necessary to amend (3)(d) to address confusion by clarifying that interns as well as morticians may authorize access to preparation rooms. While not a new provision, this was not stated previously in rule.

The board is striking (4) and relocating the provisions to NEW RULE I.

The board is also amending this rule for better organization, clarity, and ease of use for the reader, to remove outdated, redundant, and unnecessary provisions, and to comply with ARM formatting requirements.

24.147.904 MORTUARY AND BRANCH ESTABLISHMENT LICENSES AND TEMPORARY PERMITS (1) Applicants for licensure as a mortuary or branch

establishment must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(2) Applicants for licensure as a mortuary must:

(a) designate a mortician-in-charge;

(b) apply for a temporary permit; and

(c) once a temporary permit has been issued, pass an initial inspection by a board-designated inspector. The inspection is based on the operation standards described in these statutes and rules.

(3) Applicants for licensure of an existing mortuary with a change in ownership must meet the applicable requirements in ARM [24.147.407] in addition to the requirements listed in (1) and (2).

(4) Applicants for transfer of an existing mortuary license per 37-19-402, MCA, must meet the applicable requirements in ARM [24.147.407] in addition to the requirements listed in (1) and (2).

(5) Applicants for licensure of a branch establishment must meet:

(a) the definition of a branch establishment as defined in 37-19-101, MCA;

and

(b) the requirements described in (1) and (2).

~~(1) A licensed mortuary may operate a branch establishment that meets all of the criteria of a "mortuary" as defined in 37-19-101, MCA, except that the branch mortuary is not required to have a visitation room or preparation room.~~

~~(2) If a branch mortuary has no preparation room, no preparation of dead human bodies may occur there and the only authorized activities that may occur include the making of at-need and pre-need funeral arrangements, viewing, and funeral services.~~

~~(3) Except as stated in this rule, a branch mortuary is otherwise subject to the same requirements as that of a mortuary.~~

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, 37-19-101, 37-19-402, 37-19-403, MCA

REASON: To align with the creation of distinct rules for mortuary and branch inspections (ARM 24.147.403) and operation standards (ARM 24.147.901), the board is amending this rule to set forth all initial licensure requirements for mortuaries and branch establishments in one rule. While not establishing new standards, the amended rule will clearly delineate all minimum license requirements and clarify the relationship between licensure, temporary licenses, and the inspection process in a single location.

24.147.1101 CREMATORY LICENSES, TEMPORARY PERMITS, AND OPERATION STANDARDS (1) Crematories may not operate unless they have:

(a) been issued a license or temporary permit; and

(b) designated a crematory operator-in-charge per these rules. The board must be notified of any change of crematory operator-in-charge per the requirements of [NEW RULE I].

(2) Applicants for licensure as a crematory must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

(3) Applicants for licensure as a crematory must:

(a) designate a crematory operator-in-charge;

(b) apply for a temporary permit; and

(c) once a temporary permit has been issued, pass an initial inspection by a board-designated inspector per ARM 24.147.403. The inspection is based on the operation standards described in these statutes and rules.

(4) Applicants for licensure of an existing crematory with a change in ownership must meet the applicable requirements in ARM [24.147.407] in addition to the requirements listed in (2) and (3).

(5) Applicants for relocation of an existing crematory license must meet the applicable requirements in ARM [24.147.407] in addition to the requirements listed in (2) and (3).

(6) Crematories must meet the following minimum operation requirements:

(a) all crematory employees must be licensed per 37-19-702, MCA;

(b) comply with all local, state, and federal laws and rules pertaining to the operation of a crematory;

(c) have floors and walls constructed of an impervious material to allow cleaning and disinfection of these surfaces;

(d) maintain the crematory and all related cremation equipment after each use in a clean and sanitary condition;

(e) conduct appropriate maintenance and safe operation of equipment used in cremations;

(f) post signs near telephones and in the vicinity of the retort to direct staff to call 911 in a fire or other emergency; and

(g) display the facility license and licenses of all staff in a conspicuous place so they can be seen by members of the public. Personal addresses on licenses may be covered.

(7) Crematories must obtain and maintain all applicable local, state, and federal permits or licenses, including, but not limited to, those relating to:

(a) business;

(b) zoning;

(c) building codes (including plumbing, electrical, and mechanical);

(d) fire codes;

(e) air quality; and

(f) water quality.

(8) Crematories must have procedures to ensure:

(a) proper authorization to cremate exists; and

(b) the identification of:

(i) remains awaiting cremation;

(ii) remains in the cremation chamber;

(iii) cremated remains in the processing station; and

(iv) the urns or containers holding the cremated remains.

(9) Crematories must notify the board of any changes in equipment described in 37-19-703, MCA, within ten days.

- (1) ~~All crematory facilities shall:~~
- ~~(a) comply with all local, state, and federal laws and rules pertaining to the operation of a crematory, and maintain for inspection permits relating to business, zoning, building codes (including plumbing, electrical, and mechanical), fire codes, air quality, and water quality;~~
 - ~~(b) notify the board in writing of any changes in equipment from that reported on the application and maintain for inspection maintenance and repair schedules of equipment;~~
 - ~~(c) designate a crematory operator in charge and notify the board in writing within ten days of any change in that designation;~~
 - ~~(d) post signs near telephones and in the vicinity of the retort to direct staff to call 911 in a fire or other emergency;~~
 - ~~(e) display the facility and personal licenses of licensed staff in plain view for members of the public to view. Personal addresses on licenses may be covered;~~
 - ~~(f) conduct appropriate maintenance and safe operation of equipment used in cremations;~~
 - ~~(g) maintain the crematory and all related cremation equipment after each use in a clean and sanitary condition;~~
 - ~~(h) have floors and walls constructed of an impervious material to allow cleaning and disinfection of these surfaces;~~
 - ~~(i) have procedures to identify remains awaiting cremation, remains in the cremation chamber, cremated remains in the processing station, and the urns or containers holding the cremated remains; and~~
 - ~~(j) have procedures to ensure the proper authorization to cremate exists.~~
- (2) ~~All crematory facilities shall comply with the requirements of ARM 24.147.403 that are applicable to mortuaries regarding transfers, inspections, and eligibility for a temporary permit to operate a crematory, and ARM 24.147.903 regarding name change, closure, or sale of a crematory facility.~~

AUTH: 37-1-131, 37-19-202, 37-19-703, MCA

IMP: 37-1-131, 37-19-702, 37-19-703, 37-19-704, 37-19-705, MCA

REASON: The board determined it is reasonably necessary to amend this rule to combine initial licensing and ongoing operation requirements for crematories in a single location. While not establishing new standards or procedures, the amended rule will clearly delineate all minimum crematory license requirements and further clarify the relationship between licensure, temporary licenses, and the inspection process in a single location.

Noting that crematory operation standards are not changing, the board is amending the current language for better organization, clarity, and to comply with ARM formatting and numbering requirements.

24.147.2101 CONTINUING EDUCATION REQUIREMENTS – MORTICIANS

(1) Continuing education consists of educational activities designed to:

(a) review existing concepts and techniques;

(b) convey information beyond the basic professional education; and

(c) update knowledge on the practice and advances in mortuary science.

(2) Continuing education approved by the board must directly relate to the scope of practice of mortuary science as defined in board statutes and rules.

(3) The primary objective of continuing education is the protection of the health, safety, and welfare of the public, and deals primarily with the scope of practice, professional conduct, or ethical obligations of the license held. Licensees are responsible for selecting quality programs that contribute to their knowledge and competence and meet these objectives.

(a) Courses in which the principal purpose is to promote, sell, or offer goods, products, or services to funeral providers, or to promote the personal interests of the licensees do not meet continuing education requirements.

(4) Continuing education requirements will not apply until the licensee's first full year of licensure.

(5) The board may randomly audit up to 50 percent of renewed licensees' continuing education hours.

~~(4) (6) Morticians with active licenses, beginning with their first full year of licensure, shall complete a minimum of 12 hours of approved continuing education in a two-year period, beginning July 1, 2013, with a minimum of three hours addressing the FTC funeral rule, federal or state regulations governing safety and sanitation of funeral services practice, board rules governing funeral trusts, or funeral services ethics. The board will conduct the first audit under this rule after July 1, 2015, and every odd-numbered year thereafter. Morticians with active licenses licensed less than two full years on their first audit must provide proof of six hours of continuing education are required to obtain a total of six continuing education hours annually, prior to renewal on July 1.~~

(a) A minimum of 1.5 hours of the six hours must address the FTC funeral rule, federal or state regulations governing safety and sanitation of funeral services practice, board rules governing funeral trusts, or funeral services ethics.

~~(2) Compliance with the requirements of continuing education is a prerequisite for license renewal as evidenced by the renewal applicant's affirmation on his or her renewal form, subject to random audit.~~

~~(3) Except as provided in ARM 24.147.2102, the board will not preapprove continuing education courses or sponsors. It is the responsibility of licensees to select courses which meet the criteria set forth in this rule.~~

~~(4) To be approved, continuing education courses must meet the following criteria:~~

~~(a) as its primary objective the protection of the health, safety, and welfare of the public, and deal primarily with the scope of practice, professional conduct, or ethical obligations of the license held. The board shall not allow credit for courses where the principal purpose of the course is to promote, sell, or offer goods, products, or services to funeral providers, or to promote the personal interests of the licensees;~~

~~(b) be conducted or written by an individual or group qualified by practical or academic experience; and~~

~~(c) must provide the licensee with documentation of successful program completion and attendance, including:~~

~~(i) full name and qualifications of the presenter;~~

~~(ii) title of the presentation attended;~~

~~(iii) number of hours and date of each presentation attended;~~

~~(iv) name of sponsor; and~~

~~(v) description of the presentation format.~~

~~(5) The board may accept hours from other organizations not listed in ARM 24.147.2102 if the course meets the criteria in (4).~~

~~(6) Funeral service board members may receive continuing education credit by attending a regularly scheduled board meeting.~~

~~(7) Licensees may earn up to three hours per year by self-study, audio, video, internet-based, or other activity as long as the licensee passes a test on the materials as evidenced by a certificate of completion.~~

(7) Board meetings are approved as continuing education.

(a) A licensee must attend at least half of a meeting to obtain credit.

(b) A board meeting is worth one hour of continuing education credit.

~~(8) The board may randomly audit ten percent of the licenses held by persons subject to the continuing education requirement each year and require the selected licensees to provide copies of completion certificates to the board as verification of compliance.~~

(8) All continuing education must be documented to show proof of completion. The licensee is responsible for maintaining these records for one year following the renewal cycle reporting period, and for making those records available upon board request. Documentation must include the following information:

(a) licensee name;

(b) course title and description of content;

(c) presenter or sponsor;

(d) course date(s); and

(e) number of continuing education hours earned.

(9) All licensees will affirm understanding of their recurring duty to comply with continuing education requirements as a part of annual license renewal.

~~(9) (10) Licensees found to be in noncompliance with continuing education requirements may be are subject to disciplinary action against their licenses. Licensees may not apply continuing education hours used to complete delinquent continuing education plan requirements for the next continuing education reporting period.~~

~~(10) Upon request of a licensee, the board may grant a waiver for extenuating circumstances of certified illness or undue hardship.~~

~~(11) The burden is on the licensee to satisfy the requirements of this rule. The licensee shall maintain documentation of completion of continuing education for two years following the renewal cycle in which the hours were reported.~~

~~(12) (11) Continuing education credits Any continuing education hours required by disciplinary order shall not be used to satisfy the biannual requirement do not apply toward the six hours that are required annually under this rule.~~

(12) A licensee may request a hardship exemption from continuing education requirements due to certified illness or undue hardship. Requests will be considered by the board.

AUTH: ~~37-1-131, 37-1-319, 37-19-202, MCA~~

IMP: ~~37-1-131, 37-1-306, 37-1-319, MCA~~

REASON: The board is amending this rule to help facilitate the department's standardized application, renewal, and audit procedures, and streamline the rule for better organization and ease of use for the reader. As a part of the standardization, the board is placing the responsibility on mortician licensees to select quality continuing education (CE) programs that contribute to their knowledge and competence. Following amendment, the board will no longer approve sponsors or courses as the licensees must choose CE that meets the education objectives described in this rule. Additionally, the board is changing to annual CE reporting to align with the annual license renewal cycle, which will save staff time and overall board expenses, and facilitate standard processes among all boards.

Additionally, the board is removing the three-hour limit for online hours to allow licensees more flexibility in selecting relevant courses. Following amendment, there will be no limit to online hours. Additional amendments will allow licensees to obtain CE by attending at least half of a board meeting.

The board is further amending this rule to allow flexibility in conducting random CE audits. Currently, the board may randomly audit 10 percent of all renewed licensees each reporting period. This amendment will allow the board to respond to staffing and budget issues by adjusting the number of licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

The board is also amending this rule for better organization, clarity, and ease of use for the reader, to remove outdated, redundant, and unnecessary provisions, and to comply with ARM formatting requirements.

24.147.2301 UNPROFESSIONAL CONDUCT (1) through (1)(e) remain the same.

(f) failing to exercise appropriate supervision of nonlicensed personnel;
(g) allowing nonlicensed personnel to perform duties that are statutorily reserved for licensees;

(f) through (o) remain the same but are renumbered (h) through (q).

~~(p) permitting nonlicensed personnel to make arrangements for a funeral;~~

(q) through (s) remain the same but are renumbered (r) through (t).

(u) disposing of human remains in any manner not specified by the authorizing agent, or otherwise permitted by law;

(t) through (w) remain the same but are renumbered (v) through (y).

AUTH: 37-1-131, 37-1-136, 37-1-319, ~~37-19-202~~, MCA

IMP: 37-1-136, 37-1-316, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend this rule by adding to the actions considered by the board as unprofessional conduct. The board is adding (1)(f) and (g) to align with new definitions in ARM 24.147.302 and the adoption of NEW RULE II regarding nonlicensed personnel. It is reasonably necessary to clearly explain that improper supervision or delegating nonallowed functions to nonlicensed individuals is considered unprofessional conduct.

Following a recommendation by the board's prosecuting attorney, the board is adding (1)(u) to address situations currently occurring in other areas of the United States. To better protect public health, safety, and welfare, the board is amending this rule to enable the board to adequately address complaints of this nature, should they occur in the future in Montana.

5. The rules proposed to be amended and transferred are as follows, stricken matter interlined, new matter underlined:

24.147.402 (24.147.507) ORIGINAL MORTICIAN LICENSES - APPLICATION (1) Applicants for licensure not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation.

~~(1) An applicant for licensure as a mortician shall submit a completed application form provided by the department, the application fee, and the following documents in order to receive permission to take the jurisprudence examination:~~

(2) All transcripts must be certified and sent directly from the school(s). Applicants must meet the following education requirements:

~~(a) a certified transcript of 60 semester credits or 90 quarter credits, sent directly to the board office from a funeral service or mortuary science education program accredited by the American Board of Funeral Service Education (ABFSE) or its successor, granting an associate degree, certificate, or diploma;~~

(a) minimum of an associate's degree in funeral service or mortuary science from a program accredited by the American Board of Funeral Service Education (ABFSE) or its successor which consists of a minimum of 60 semester credits or 90 quarter credits; and

~~(b) a certified transcript of an additional 30 semester credits or 45 quarter credits sent directly to the board office from a college or university accredited by a regional accrediting agency recognized by the U.S. Department of Education in any of the following subjects:~~

~~(i) through (xiii) remain the same.~~

~~(c) a completed internship agreement on a form provided by the department; and~~

~~(d) a certified copy of the certification form verifying successful completion, within five years prior to the date of application, of the International Conference of Funeral Service Examining Board (Conference) examination sent directly to the board office from the Conference.~~

(3) Exceptions to the education requirements in (2) are as follows:

(a) if an applicant graduated or attended a foreign school or university instead of obtaining the required education from an accredited U.S. school or university as described in (2), the applicant must submit transcripts or other official documentation which will be evaluated by the board; and

(b) per ARM 24.147.508, relevant military training, service, or education which will be evaluated by the board.

(4) In addition to the education requirements for licensure, applicants must:

(a) have completed an internship as required in 37-19-302, MCA, and ARM 24.147.504;

(b) have passed examinations as described in ARM [24.147.509]; and

(c) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(5) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(2) No credits used to satisfy the credit hours in (1)(a) may be used to satisfy the credit hours in (1)(b).~~

~~(3) A certified transcript demonstrating a baccalaureate degree in a funeral service or mortuary science education program from an ABFSE or successor accredited college will serve to meet the requirements of (1)(a) and (b).~~

~~(4) Upon submission of all required information and successful completion of the jurisprudence examination, mortician applicants shall qualify to receive a mortician intern license. In order to receive an unrestricted mortician's license, interns must submit an additional application on a form provided by the department and provide evidence of successful completion of the internship requirements as set forth in ARM 24.147.504.~~

~~(5) Applicants having served their internship in another state shall complete the application form for a mortician license and submit documentation of completion of an internship substantially equivalent to Montana internship requirements.~~

~~(6) Board staff may issue licenses in cases of routine applications. The board will review all complete nonroutine applications received by the board office prior to the board meeting in accordance with department policy.~~

AUTH: 37-1-131, 37-19-202, MCA

IMP: ~~37-1-404, 37-1-131,~~ 37-19-302, 37-19-303, MCA

REASON: The board is renumbering and transferring this rule from subchapter 4 to 5 to house all rules regarding morticians and interns in the same subchapter.

The board determined it is reasonably necessary to amend this rule and allow the board to consider education received outside the United States when evaluating minimum education requirements of mortician applicants. The board has concluded that it has the necessary tools to thoroughly evaluate education obtained in other countries and determine whether it meets current U.S. standards.

The addition of (3)(b) specifies that the board will consider relevant military training, service, or education in lieu of a degree per ARM 24.147.508.

The board is striking (4) and (5) since intern licensure is a separate application process and is adequately described in ARM 24.147.504.

The board is adding (5) regarding the expiration of incomplete applications to align with current standardized department procedures for application processing.

Additional changes remove outdated, redundant, and unnecessary language to provide consistency, simplicity, better organization, and ease of use for licensees.

24.147.405 (24.147.509) EXAMINATIONS (1) ~~The licensing examination required of morticians is~~ Morticians and interns must pass the following examinations:

(a) the National Board Examination of the International Conference of Funeral Service Examining Boards within five years prior to the date of application; and-

~~(2) In addition, an applicant for licensure as a mortician or a mortician intern shall take and pass, with a grade of 75 percent or higher,~~

~~(b) a jurisprudence examination prescribed by the board covering the statutes and rules governing the practice of funeral service in Montana. under Title 37, chapter 19, MCA, pertinent portions of Title 46, chapter 4, MCA, relating to county coroner's duties, Title 50, chapter 15, MCA, relating to vital statistics and the rules of the Montana state Department of Public Health and Human Services covering registration of deaths, embalming, transportation, disposition of dead human bodies, and funeral directing.~~

(2) The jurisprudence examination must be passed with a score of 75 percent or greater. Any applicant who fails the jurisprudence exam may retake the examination, but must pay the reexamination fee listed in ARM 24.147.401 for each subsequent reexamination.

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, 37-19-302, 37-19-303, 37-19-304, MCA

REASON: The board is renumbering and transferring this rule from subchapter 4 to 5 to house all rules regarding morticians and interns in the same subchapter.

The board is amending this rule to set forth examination standards and procedures in a single location, thus eliminating unnecessary duplication in multiple rules. Additionally, the board addresses questions by clarifying that only mortician and intern applicants must pass the jurisprudence exam and further explaining the jurisprudence retake fee, set forth in ARM 24.147.401.

Additional changes remove outdated, redundant, and unnecessary language for consistency, simplicity, and ease of use for the reader.

24.147.903 (24.147.407) NAME CHANGE, CLOSURE, TRANSFER, OR SALE OF FACILITY – MORTUARY, BRANCH ESTABLISHMENT, CREMATORY, OR CEMETERY (1) ~~In addition to the provisions of ARM 24.147.403 applicable to mortuaries, a licensee or manager in charge of a mortuary, crematory, or cemetery shall notify the board office within ten days of any change of a business name, closure, relocation, sale, or other change in ownership. When there is a change of ownership, the existing license is void and a new license must be obtained from the board.~~

(1) Using forms provided by the department, mortuaries, branch establishments, crematories, and cemeteries must notify the board within ten days of any of the following occurring:

(a) change of business name;

(b) closure;

(c) transfer, as defined in 37-19-402, MCA, or relocation; or

(d) sale or change of ownership as defined in these rules.

~~(2) A change in ownership, for purposes of this rule, shall occur whenever more than 50 percent of the equitable ownership of a facility is transferred in a single transaction, or in a related series transaction, or in a related series of transactions to one or more persons, associations, or corporations. A new owner of a facility shall publish, for a one-week period, a notice of the change of ownership in a newspaper of general circulation in the county in which the facility is located, within 30 days of the change of ownership. The notice shall contain only the following information under the title "Notice of Change of Ownership":~~

(2) When there is a change in ownership the license issued to the previous owner is void. The new owner must:

(a) apply for a license per the applicable requirements in this chapter; and

(b) within 30 days of the change of ownership, publish notice of the change of ownership in a newspaper of general circulation in the county in which the facility is located.

(3) The notice in (2)(b) must be published for no less than one week. The notice must contain the following under the title "Notice of Change of Ownership":

(a) remains the same.

(b) the name of each new owner if sole proprietor or partnership; and whether the facility is owned by a sole proprietor, partnership, or corporation. If the new owner is a corporation, the notice must contain:

(i) name of the corporation;

(ii) name of the registered agent of the corporation; and

(iii) registered agent's address if it is different than the physical address; and

~~(c) if the new owner is a corporation, the name of the corporation, its registered agent, and registered agent's address, if different than the physical address; and~~

(d) (c) the name of the mortician-in-charge, crematory operator-in-charge, or cemetery manager licensee in charge.

AUTH: 37-19-202, 37-19-403, 37-19-703, 37-19-816, MCA

IMP: 37-19-402, 37-19-403, 37-19-703, 37-19-816, MCA

REASON: The board is renumbering and transferring this rule to subchapter 4 to be located with other rules that apply generally across multiple license types.

The board determined it is reasonably necessary to amend this rule to standardize the process for licensees to notify the board of changes in business name, closure, transfer, or sale. The board concluded that these changes will ensure the board receives adequate data and help facilitate department efficiencies.

The amendments to (3) will further clarify that for ownership changes, the newspaper notice must contain the name of the mortician-in-charge, crematory operator-in-charge, or cemetery manager, since these facilities could have multiple licensees.

The board is also amending this rule for better organization, clarity, and ease of use for the reader, to remove outdated, redundant, and unnecessary provisions, and to comply with ARM formatting requirements.

6. The proposed new rules are as follows:

NEW RULE I CHANGE OF MORTICIAN-IN-CHARGE OR CREMATORY OPERATOR-IN-CHARGE (1) When there is a change of mortician-in-charge at a mortuary or branch establishment or a crematory operator-in-charge at a crematory, the following must occur:

(a) the mortician or crematory operator who has ceased to be the person-in-charge will be held responsible for notifying the board of termination of services; and
(b) the mortuary or branch establishment or crematory must designate a new person-in-charge and notify the board within ten days.

(2) The notifications described in (1) must be done using forms provided by the department.

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, 37-19-402, 37-19-702, MCA

REASON: Mortuaries, branch establishments, and crematories are required to have a designated mortician-in-charge or crematory operator to operate. While it has always been the responsibility of the licensed facility to notify the board of a new person-in-charge within ten days, the board is adopting this rule to also require that the previous person-in-charge notifies the board of termination of services. These changes will help standardize the notification process and facilitate department efficiencies and recordkeeping.

NEW RULE II NONLICENSED PERSONNEL (1) Nonlicensed personnel must be supervised by the mortician-in-charge of the mortuary or branch establishment.

(2) The mortician-in-charge assumes full legal and ethical responsibility for tasks performed by nonlicensed personnel.

(3) The mortician-in-charge is responsible for determining the competency of nonlicensed personnel to perform tasks under direction and supervision.

(4) No mortician can delegate any responsibilities statutorily reserved for a mortician to nonlicensed personnel.

AUTH: 37-1-131, 37-19-202, MCA

IMP: 37-1-131, 37-19-402, MCA

REASON: The board is adopting this rule to align with new definitions in ARM 24.147.302 and the amendment of ARM 24.147.2301 regarding nonlicensed personnel. Because mortuaries and branch facilities regularly employ nonlicensed staff, the board determined it is reasonably necessary to clearly describe the supervision of nonlicensed persons. The board is adopting this rule to specify that the mortician-in-charge is responsible for nonlicensed personnel and that morticians cannot delegate to nonlicensed personnel any responsibilities statutorily reserved for licensees.

7. The board proposes to repeal the following rule:

24.147.2102 SPONSORS

AUTH: 37-1-319, 37-19-202, MCA

IMP: 37-1-306, MCA

REASON: The board is repealing this rule as obsolete and no longer necessary. With the amendments proposed in ARM 24.147.2101, the board will no longer approve sponsors or continuing education courses.

8. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdfnr@mt.gov, and must be received no later than 5:00 p.m., January 5, 2018.

9. An electronic copy of this notice of public hearing is available at www.dlibsdfuneral.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

10. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdfnr@mt.gov; or made by completing a request form at any rules hearing held by the agency.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.147.302, 24.147.403, 24.147.408, 24.147.501, 24.147.901, 24.147.904, 24.147.1101, 24.147.2101, and 24.147.2301 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment and transfer of ARM 24.147.402 (24.147.507), 24.147.405 (24.147.509), and 24.147.903 (24.147.407) will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I and II will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.147.2102 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or to dlibsdfnr@mt.gov.

13. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

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 November 27, 2017.