



DEPARTMENT OF LABOR AND INDUSTRY

- Rule 24.147.408      Transportation and Custody of Human Remains
- 24.147.409      Change of Mortician-in-Charge or Crematory Operator-in-Charge
- 24.147.410      Nonlicensed Personnel
- 24.147.411      Contract for Funeral Goods and Services
- 24.147.412      Records
- Rule 24.147.413 reserved
- 24.147.414      Nonroutine Applications
- 24.147.415      Applicants With Criminal Convictions

Subchapter 5

Morticians and Interns

- Rule 24.147.501      Out-of-State Mortician Licenses
- 24.147.502      Inactive Status and Conversion to Active Status
- 24.147.503      Conditional Permission to Practice While on Inactive Status (REPEALED)
- 24.147.504      Mortician Internship
- 24.147.505      Renewals
- 24.147.506      Renewal of Cemetery License (REPEALED)
- 24.147.507      Mortician Licenses
- 24.147.508      Military Training or Experience
- 24.147.509      Examinations

Subchapters 6 through 8 reserved

Subchapter 9

Mortuaries and Branch Establishments

- Rule 24.147.901      Mortuary and Branch Establishment Operation Standards

## FUNERAL SERVICE

- Rule 24.147.902 Disclosure Statement on Embalming
- 24.147.903 Name Change, Closure, or Sale of Facility  
(TRANSFERRED)
- 24.147.904 Mortuary and Branch Establishment Licenses and  
Temporary Permits

Subchapter 10 reserved

Subchapter 11

### Crematories, Crematory Operators, and Crematory Technicians

- Rule 24.147.1101 Crematory Licenses, Temporary Permits, and Operation  
Standards
- 24.147.1102 Casket/Containers
- 24.147.1103 Shipping Cremated Human Remains (REPEALED)
- Rule 24.147.1104 reserved
- 24.147.1105 Crematory Records
- Rule 24.147.1106 reserved
- 24.147.1107 Cremation Authorizations
- Rules 24.147.1108 and 24.147.1109 reserved
- 24.147.1110 Integrity of Identification of Human Remains
- 24.147.1111 Cremation Procedures
- 24.147.1112 Crematory Prohibitions
- 24.147.1113 Designation as Crematory Operator or Technician  
(REPEALED)
- 24.147.1114 Licensure as a Crematory Operator
- 24.147.1115 Licensure as a Crematory Technician

Subchapter 12 reserved

DEPARTMENT OF LABOR AND INDUSTRY

Subchapter 13

Cemeteries

Rule	24.147.1301	Applications for Cemetery Licenses
	24.147.1302	Managers
	24.147.1303	Cemetery Contracts; Price Disclosure
	24.147.1304	Perpetual Care and Maintenance Fund Reports (REPEALED)
	24.147.1305	Audit Fees (REPEALED)
		Rules 24.147.1306 through 24.147.1309 reserved
	24.147.1310	Requirements for Burials
	24.147.1311	Cemetery Authority Rules (REPEALED)
	24.147.1312	Restrictions on Use of Cemetery Funds (REPEALED)
	24.147.1313	Transfer of Cemetery Ownership
	24.147.1314	Perpetual Care and Maintenance Funds (REPEALED)

Subchapter 14 reserved

Subchapter 15

Prearranged Funeral Agreements

Rule	24.147.1501	Branch Facility (REPEALED)
	24.147.1502	Prearranged, Prefinanced, or Prepaid Funerals
	24.147.1503	Requirements for Sale of At-Need, Preneed, and Prepaid Funeral Arrangements
	24.147.1504	Preneed Funeral Agreements
	24.147.1505	Trust Funds (REPEALED)
	24.147.1506	Preneed Agreements – Notification of Closure or Change of Ownership – Mortuary, Branch Establishment, or Crematory

# FUNERAL SERVICE

## Subchapter 16

### Trust Funds – Cemeteries, Mortuaries, and Crematories

Rule	24.147.1601	Trust Funds – General
	24.147.1602	Cemetery Perpetual Care and Maintenance Trust Accounts – General
	24.147.1603	Cemetery Perpetual Care and Maintenance Trust Accounts – Financial Records
	24.147.1604	Cemetery Perpetual Care and Maintenance Trust Accounts – Annual Reporting Requirements
	24.147.1605	Cemetery Perpetual Care and Maintenance Trust Accounts – Audits
	24.147.1606	Mortuary and Crematory Preneed Trust Accounts – General
	24.147.1607	Mortuary and Crematory Preneed Trust Accounts – Financial Records
	24.147.1608	Mortuary and Crematory Preneed Trust Accounts – Annual Reporting Requirements
	24.147.1609	Mortuary and Crematory Preneed Trust Accounts – Audits

Subchapters 17 through 20 reserved

DEPARTMENT OF LABOR AND INDUSTRY

Subchapter 21

Continuing Education

- Rule 24.147.2101 Continuing Education Requirements – Morticians
- 24.147.2102 Sponsors (REPEALED)
- Rules 24.147.2103 through 24.147.2107 reserved
- 24.147.2108 Exceptions – Not Engaging in the Practice of Funeral Service (REPEALED)
- 24.147.2109 Penalty for Noncompliance (REPEALED)

Subchapter 22 reserved

Subchapter 23

Unprofessional Conduct

- Rule 24.147.2301 Unprofessional Conduct
- 24.147.2302 Licensee Responsibility in Case of Crime or Violence in Connection With Cause of Death (REPEALED)
- 24.147.2303 Freedom of Choice Rights of Next of Kin and Family (REPEALED)
- 24.147.2304 Unlawful Practice (REPEALED)
- 24.147.2305 Screening Panel (REPEALED)

Subchapter 24

Complaint Procedures

- Rule 24.147.2401 Complaint Filing (REPEALED)

## Subchapter 1

## Organizational Rule

24.147.101 BOARD ORGANIZATION (1) The Board of Funeral Service hereby adopts and incorporates the organizational rules of the Department of Labor and Industry as listed in chapter 1 of this title. (History: 37-19-202, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1996 MAR p. 2425, Eff. 9/20/96; TRANS, from Commerce, 2002 MAR p. 790.)

## Subchapter 2

## Procedural Rules

24.147.201 PROCEDURAL RULES (1) The Board of Funeral Service hereby adopts and incorporates the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title. (History: 37-19-202, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1996 MAR p. 2425, Eff. 9/20/96; TRANS, from Commerce, 2002 MAR p. 790.)

24.147.202 CITIZEN PARTICIPATION RULES (1) The Board of Funeral Service hereby adopts and incorporates by this reference the public participation rules of the Department of Commerce as listed in chapter 2 of this title. (History: 37-19-202, MCA; IMP, 2-3-103, MCA; NEW, Eff. 4/4/77; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1996 MAR p. 2425, Eff. 9/20/96; TRANS, from Commerce, 2002 MAR p. 790.)



## Subchapter 3

## Definitions

24.147.301 CONTINUING EDUCATION DEFINITIONS (REPEALED)

(History: 37-1-319, 37-19-202, MCA; IMP, 37-1-306, MCA; NEW, 1983 MAR p. 273, Eff. 4/1/83; AMD, 1995 MAR p. 845, Eff. 5/12/95; AMD, 1996 MAR p. 2425, Eff. 9/20/96; TRANS, from Commerce, 2002 MAR p. 790; REP, 2013 MAR p. 1191, Eff. 7/12/13.)

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

(1) "Authorization for Removal, Transportation and Final Disposition of a Dead Body (ART) form" means the form developed by the Department of Public Health and Human Services per 50-15-405, MCA, which provides:

(a) authorization for removal from place of death per 50-15-405, MCA; and  
(b) authorization from the coroner to cremate per 46-4-122 and 50-15-405, MCA.

(2) "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.

(3) "Cremation authorization form" means an agreement executed between an authorizing agent and a crematory, mortuary, or branch establishment pertaining to receipt of the human remains. A cremation authorization form is not any of the following:

(a) a contract for payment of cremation services;  
(b) a coroner's authorization to cremate under 46-4-122, MCA; or  
(c) a prepaid funeral arrangement under 37-19-903, MCA, which can only be made by a licensed mortician at a licensed mortuary.

(4) "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.

(5) "Hazardous implant" 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. Hazardous implants may only be removed by:

(a) appropriate medical personnel at a medical facility; or

(b) a mortician or intern at a mortuary or branch establishment with a preparation room. The mortuary or branch establishment must keep a record of the removal and disposition of the implant. Mortuaries and branch establishments must dispose of hazardous implants in accordance with federal, state, and local laws and regulations.

(6) "Intended funeral recipient" means the person named in a prepaid funeral agreement for whose bodily disposition and/or related funeral services and goods and prepaid funeral agreement is intended to provide. The intended funeral recipient may or may not be the purchaser. This term includes the agent, guardian, or other person legally acting on behalf of the person considered the "intended funeral recipient."

(7) "Mortician-in-charge" means a Montana-licensed mortician who accepts responsibility for the operation of a mortuary or branch establishment 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 or branch establishment;

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

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

(d) is responsible for ensuring in-person supervision by a mortician for students working in the mortuary or branch establishment who are engaged in a clinical practicum as described in 37-19-308, MCA.

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

(9) "Permit" as referenced in 37-19-814, MCA, is synonymous with "license" in the context of cemetery permits issued by the board under these rules.

(10) "Prepaid funeral agreement" as further clarified in these rules means a written agreement for preneed funeral arrangements which is made between a purchaser and provider prior to the death of the intended funeral recipient.

(11) "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 do not mean interment spaces offered or sold by a cemetery company.

(12) "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 does not mean the sale of services incidental to the provision of interment spaces offered or sold by a cemetery company.

(13) "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.

(14) "Provider" means a licensed mortician or the licensed mortuary 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.

(15) "Purchaser" means the person named in a prepaid funeral agreement who purchases the prepaid funeral goods and services to be provided 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 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.

(16) "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.

(History: 37-1-131, 37-19-202, 37-19-308, MCA; IMP, 37-1-131, 37-19-101, 37-19-308, 37-19-702, 37-19-703, 37-19-705, 37-19-706, 37-19-707, 37-19-708, 37-19-814, 37-19-827, 37-19-828, 37-19-829, MCA; NEW, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2004 MAR p. 1622, Eff. 7/23/04; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2018 MAR p. 440, Eff. 2/24/18; AMD, 2020 MAR p. 670, Eff. 4/18/20.)

## Subchapter 4

## General Provisions

24.147.401 FEE SCHEDULE

(1) Facility application fees	
(a) Mortuary	\$544
(b) Mortuary branch facility	544
(c) Crematory	544
(d) Cemetery	1813
(2) Facility inspection or reinspection fees	
(a) Mortuary	290
(b) Mortuary branch facility	290
(c) Crematory	290
(d) Cemetery	290
(3) Individual application fees	
(a) Mortician	544
(b) Crematory operator	435
(c) Crematory technician	435
(d) Mortician intern	479
(4) Activation of inactive license	
(a) Mortician	145
(b) Crematory operator	73
(c) Crematory technician	73
(5) Facility renewal fees (includes annual inspection)	
(a) Mortuary	653
(b) Mortuary branch facility	109
(c) Crematory	653
(d) Cemetery (five-year renewal)	2175
(6) Individual renewal fees	
(a) Mortician - active	435
(b) Mortician - inactive	218
(c) Crematory operator - active	218
(d) Crematory operator - inactive	109
(e) Crematory technician - active	218
(f) Crematory technician - inactive	109
(7) Jurisprudence reexamination fee	100
(8) All fees are nonrefundable.	
(9) Additional standardized fees are specified in ARM 24.101.403.	

(History: 37-1-131, 37-1-134, 37-19-202, 37-19-303, 37-19-304, 37-19-403, 37-19-702, 37-19-703, 37-19-808, 37-19-814, 37-19-815, 37-19-816, MCA; IMP, 37-1-134, 37-1-141, 37-19-303, 37-19-304, 37-19-402, 37-19-403, 37-19-702, 37-19-703, 37-19-808, 37-19-814, 37-19-815, 37-19-816, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 328, Eff. 3/30/79; AMD, 1981 MAR p. 315, Eff. 3/27/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 2137, Eff. 12/17/82; AMD, 1984 MAR p. 815, Eff. 5/18/84; AMD, 1987 MAR p. 477, Eff. 5/1/87; AMD, 1987 MAR p. 2088, Eff. 11/13/87; AMD, 1989 MAR p. 2193, Eff. 12/22/89; AMD, 1993 MAR p. 2670, Eff. 11/11/93; AMD, 1995 MAR p. 845, Eff. 5/12/95; AMD, 1996 MAR p. 2425, Eff. 9/20/96; AMD, 1998 MAR p. 2959, Eff. 11/6/98; RESCIND, (CI-75), 1999 MAR p. 66, Eff. 1/15/99; AMD, 1999 MAR p. 1201, Eff. 6/4/99; AMD, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2004 MAR p. 1622, Eff. 7/23/04; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2012 MAR p. 890, Eff. 4/27/12; AMD, 2020 MAR p. 670, Eff. 4/18/20.)

#### 24.147.402 ORIGINAL MORTICIAN LICENSE – APPLICATION

(TRANSFERRED) (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-101, 37-19-302, 37-19-303, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 328, Eff. 3/30/79; AMD, 1981 MAR p. 1058, Eff. 9/18/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 815, Eff. 5/18/84; AMD, 1985 MAR p. 1610, Eff. 11/1/85; AMD, 1998 MAR p. 2959, Eff. 11/6/98; AMD, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD, 2016 MAR p. 314, Eff. 2/20/16; AMD & TRANS, to ARM 24.147.507, 2018 MAR p. 440, Eff. 2/24/18.)

24.147.403 INSPECTIONS – MORTUARIES, BRANCH ESTABLISHMENTS, AND CREMATORIES (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. (History: 37-1-131, 37-19-202, 37-19-403, MCA; IMP, 37-1-131, 37-19-402, 37-19-403, 37-19-703, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1985 MAR p. 1610, Eff. 11/1/85; AMD, 1992 MAR p. 136, Eff. 1/31/92; AMD, 1996 MAR p. 2425, Eff. 9/20/96; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD, 2016 MAR p. 314, Eff. 2/20/16; AMD, 2018 MAR p. 440, Eff. 2/24/18.)

24.147.404 FEE ABATEMENT (1) The Board of Funeral Service adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2006 MAR p. 1169, Eff. 5/5/06.)

24.147.405 EXAMINATION (TRANSFERRED) (History: 37-19-202, MCA; IMP, 37-19-302, 37-19-303, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 2137, Eff. 12/17/82; AMD, 1985 MAR p. 1610, Eff. 11/1/85; AMD, 1989 MAR p. 2193, Eff. 12/22/89; AMD, 1998 MAR p. 2959, Eff. 11/6/98; AMD, 2002 MAR p. 84, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD & TRANS, to ARM 24.147.509, 2018 MAR p. 440, Eff. 2/24/18.)

24.147.406 FEDERAL TRADE COMMISSION REGULATIONS (1) For the purpose of defining unprofessional conduct, the board adopts and incorporates by reference the Federal Trade Commission (FTC) Funeral Industry Practice Rules, 16 CFR 453 (1997), known as "the funeral rule," which, in general, requires those who meet the FTC definition of "funeral provider" to furnish price information and make other affirmative disclosures to consumers. The FTC rules are available from the FTC web site at [www.ftc.gov](http://www.ftc.gov) or at the board office at 301 South Park Avenue, P.O. Box 200513, Helena, MT 59620-0513.

(2) The "funeral rule" applies to any licensed person or licensed entity providing both "funeral goods" and "funeral services," as those terms are defined by the federal regulations and apply to both preneed and at-need funeral arrangements.

(3) Licensees shall immediately report to the board any citations the licensee receives from the FTC.

(4) Price lists and completed Statements of Funeral Goods and Services Selected shall be maintained and available for inspection for three years from the date of the arrangement conference, rather than one year as contemplated by the FTC. (History: 37-1-136, 37-19-202, 37-19-403, MCA; IMP, 37-1-136, 37-19-403, MCA; NEW, 1998 MAR p. 2959, Eff. 11/6/98; AMD, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2013 MAR p. 1191, Eff. 7/12/13.)

24.147.407 NAME CHANGE, CLOSURE, TRANSFER, OR CHANGE OF OWNERSHIP – MORTUARY, BRANCH ESTABLISHMENT, CREMATORY, OR CEMETERY (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) change of ownership as defined in these rules.

(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;
- (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; and

(c) once the change in ownership is complete, notify the board per the requirements in ARM 24.147.1506.

(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) the name and physical address of the facility, particularly noting if the name and physical address have changed;
- (b) the name of each new owner 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) the name of the mortician-in-charge, crematory operator-in-charge, or cemetery manager. (History: 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; NEW, 1987 MAR p. 2088, Eff. 11/13/87; AMD, 1998 MAR p. 2959, Eff. 11/6/98; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD & TRANS, from ARM 24.147.903, 2018 MAR p. 440, Eff. 2/24/18; AMD, 2020 MAR p. 670, Eff. 4/18/20.)

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) 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.

(4) 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) Department of Public Health and Human Services laws and regulations on infectious disease and vital statistics, including the filing of death certificates; and

(b) Department of Labor and Industry laws and regulations regarding proper identification of the remains, health and safety requirements, and the execution of appropriate disclosures and authorizations.

(5) An authorizing agent, as defined in 37-19-101, MCA, can only delegate the activities set forth in (4) to a mortician employed by a mortuary. (History: 37-19-202, 37-19-703, MCA; IMP, 37-19-101, 37-19-703, 37-19-704, MCA; NEW, 2014 MAR p. 2017, Eff. 9/5/14; AMD, 2018 MAR p. 440, Eff. 2/24/18.)

24.147.409 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. (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-131, 37-19-402, 37-19-702, MCA; NEW, 2018 MAR p. 440, Eff. 2/24/18.)



24.147.410 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. (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-131, 37-19-402, MCA; NEW, 2018 MAR p. 440, Eff. 2/24/18.)

24.147.411 CONTRACT FOR FUNERAL GOODS AND SERVICES

(1) The current address, telephone number and name of the Board of Funeral Service shall appear prominently on any contract for funeral goods and services offered by a private cemetery, crematory or mortuary. At a minimum, the information shall be in 10-point boldface type and make the following statement: "FOR MORE INFORMATION ON STATE CEMETERY, CREMATION AND MORTUARY REGULATIONS CONTACT: BOARD OF FUNERAL SERVICE, 301 SOUTH PARK, P.O. BOX 200513, HELENA, MT 59620-0513; TELEPHONE NUMBER (406) 841-2393."

(2) Every contract of a cemetery authority, including contracts executed in behalf thereof by a cemetery broker or salesman, which provides for the sale by the cemetery authority of an interment plot or any service or merchandise, shall be in writing and shall contain all of the agreements of the parties. Such a contract shall include and disclose the following:

(a) the total contract price;

(b) terms of payment, including any promissory notes or other evidences of indebtedness; and

(c) an itemized statement of charges including, as applicable, the following:

(i) charges for an interment plot;

(ii) charges for performing burial, entombment or inurnment;

(iii) charges for a monument or marker;

(iv) charges for any services to be rendered in connection with any religious or other observance at the site of interment or in any facility maintained by the cemetery;

(v) amounts to be deposited in the perpetual care and maintenance or special care fund; and

(vi) any other charges, which shall be particularized.

(3) In addition to any right of rescission which the purchaser may have under law, a purchaser entering into a contract with a cemetery manager, salesman or authority for the provision of an interment plot or any service or merchandise, may cancel such contract without payment of a revocation fee or other penalty, within five calendar days after the purchaser signs it, by giving written notice of cancellation to the seller at the address specified in the contract. The notice need not be in any particular form, but shall indicate the purchaser's intent not to be bound by the contract. Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(4) Every such cemetery contract shall contain in immediate proximity to the space reserved for the purchaser's signature, in a size equal to at least 10-point boldface type, the following statement: "YOU, THE PURCHASER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH CALENDAR DAY AFTER THE DATE OF THIS TRANSACTION, PROVIDED NO INTERMENT, SUBSTANTIAL SERVICE OR FUNERAL GOODS HAVE BEEN PROVIDED HEREUNDER. TO CANCEL, DELIVER OR MAIL WRITTEN NOTICE OF YOUR INTENT TO (NAME AND ADDRESS OF CEMETERY AUTHORITY OR CEMETERY MANAGER)."

(5) Upon receipt of a valid notice of cancellation pursuant to this rule, the cemetery authority or manager having custody of any money or property paid or transmitted by the purchaser on account of the preneed contract, shall return such money or property to the purchaser. The cemetery authority or manager shall promptly notify the trustee if any such money or property has been transmitted thereto prior to receipt of the notice of cancellation. It shall be unlawful for any person to retain money or property received from a purchaser under such contract more than five business days after receiving or being apprized of a valid notice of cancellation.

(6) Notwithstanding other provisions of this rule, the right of cancellation granted hereby shall not be applicable if an interment has been made, or substantial services or merchandise provided, under the terms of the contract. (History: 37-19-807, MCA; IMP, 37-19-807, 37-19-822, 37-19-823, MCA; NEW, 1998 MAR p. 2959, Eff. 11/6/98; AMD, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790.)

24.147.412 RECORDS (1) The person in charge of any premises on which interments or cremations are made shall keep a record of all remains interred or cremated and of the interment of remains on the premises under the person's charge, in each case stating the name of each deceased person, place of death, date of interment, name and address of the mortician and location of grave, niche or crypt.

(2) A record shall be kept of the ownership of all plots in the cemetery which have been conveyed by the cemetery authority and of all transfers of plots in the cemetery. Transfer of any plot, heretofore or hereafter made, or any right of interment, shall be complete and effective when recorded on the books of the cemetery authority. (History: 37-19-807, MCA; IMP, 37-19-807, 37-19-823, MCA; NEW, 1998 MAR p. 2959, Eff. 11/6/98; TRANS, from Commerce, 2002 MAR p. 790.)

Rule 24.147.413 reserved

24.147.414 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.147.415 APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

## Subchapter 5

## Morticians and Interns

24.147.501 OUT-OF-STATE MORTICIAN LICENSES (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.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction to practice under a funeral 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) 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. (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-131, 37-1-304, 37-19-302, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 845, Eff. 5/12/95; AMD, 1996 MAR p. 2425, Eff. 9/20/96; AMD, 1998 MAR p. 2959, Eff. 11/6/98; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD, 2016 MAR p. 314, Eff. 2/20/16; AMD, 2018 MAR p. 440, Eff. 2/24/18.)

24.147.502 INACTIVE STATUS AND CONVERSION TO ACTIVE STATUS

(1) A person holding an individual license may request inactive status on the renewal form or by informing the board office in writing and paying the appropriate fee. The inactive licensee must keep the board informed of any change of address during the period of time the license remains on inactive status. Inactive licensees must pay the inactive renewal fee annually to avoid expiration or termination of the license.

(2) A licensee may not practice as a mortician, funeral director, crematory operator, or crematory technician in Montana while the license is in an inactive status.

(3) Upon written request and payment of the appropriate fee, the board staff may approve a request to convert an inactive license to an active status if the applicant:

(a) presents satisfactory evidence that the applicant has attended six hours of approved continuing education which comply with the continuing education rules of the board for each year or portion of a year that licensee has been inactive, not to exceed 12 hours;

(b) submits certification from the licensing body of all jurisdictions where the applicant is licensed or has practiced that the applicant is in good standing and has not had any disciplinary actions taken against the applicant's license, or if the applicant is not in good standing by that jurisdiction, an explanation of the nature of the violation(s) resulting in that status, including the extent of the disciplinary treatment imposed; and

(c) successfully completes a Montana jurisprudence examination if the applicant has been on inactive status for more than five years.

(4) The board may issue a notice of proposed board action to grant a probationary license to a practitioner who has been inactive for more than five years, and require up to one year of supervised practice by a licensed mortician, including the embalming and preparation of at least five bodies. (History: 37-1-131, 37-1-319, 37-19-202, MCA; IMP, 37-1-319, MCA; NEW, 1996 MAR p. 2425, Eff. 9/20/96; AMD, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2013 MAR p. 1191, Eff. 7/12/13.)

24.147.503 CONDITIONAL PERMISSION TO PRACTICE WHILE ON INACTIVE STATUS (REPEALED) (History: 37-19-202, MCA; IMP, 37-19-316, MCA; NEW, 1985 MAR p. 1610, Eff. 11/1/85; TRANS, from Commerce, 2002 MAR p. 790; REP, 2013 MAR p. 1191, Eff. 7/12/13.)

24.147.504 MORTICIAN INTERNSHIP (1) An applicant for a mortician internship shall make application as provided at ARM 24.147.402. To qualify for a regular mortician's license, the intern shall complete the requirements set forth in this rule. The board shall recognize internships served in other jurisdictions that are substantially equivalent to the internship requirements in this rule.

(2) An intern must be an employee at a licensed mortuary under the supervision of a licensed mortician and assist in the complete funeral (embalming, dressing, arrangement of funeral) of at least 25 bodies over a period of at least one year, but no more than three years after passing the jurisprudence examination.

(3) In order to receive credit, an intern must serve for a continuous six-month period under the supervision of the same licensed mortician. The board may waive this requirement in cases involving closure of firm, hardship due to illness or death of supervising mortician, illness of intern, or such other emergency.

(4) The intern and supervisor each shall report to the board any change of sponsoring mortician within ten days.

(5) If after three years from passing the jurisprudence exam, the internship has not been completed, the intern may apply for reexamination of state law and rules, and upon passing, begin the internship anew. No credit will be given for prior time served in an internship.

(6) An intern mortician may perform all the duties and functions of a licensed mortician, as allowed and directed by the supervising mortician. Despite the supervising mortician having responsibility for the professional actions of the intern, as prescribed in Title 37, chapter 1, MCA, the board may take action to revoke, suspend, or discipline an intern license.

(a) "Supervision" has the meaning set forth in 37-19-101, MCA, and means the extent of oversight that a mortician believes an intern requires, based upon the intern's training, experience, judgment, and professional development. At a minimum, the term requires the supervisor, or in limited absences of the supervisor, a delegated licensed mortician to be available for consultation on all client-related activity performed by the intern, and requires direction, observation, and evaluation on a regular basis.

(b) Failure to appropriately supervise an intern may result in disciplinary action against the supervising mortician. (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-131, 37-19-101, 37-19-302, 37-19-304, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1985 MAR p. 1610, Eff. 11/1/85; AMD, 1996 MAR p. 2425, Eff. 9/20/96; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2013 MAR p. 1191, Eff. 7/12/13.)

24.147.505 RENEWALS (1) The department will renew licenses as specified in 37-1-141, MCA, ARM 24.101.408, 24.101.413, and 24.101.414.

(2) The renewal date for cemeteries is a five-year period set by 37-19-814, MCA. A "five-year period" means every five years beginning on July 1, 2000. The department will not prorate the application or license fee of newly issued licenses obtained prior to the expiration of a five-year period. (History: 37-19-202, MCA; IMP, 37-1-141, 37-19-301, 37-19-814, MCA; NEW, 2002 MAR p. 793, Eff. 1/18/02; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2013 MAR p. 1191, Eff. 7/12/13.)

24.147.506 RENEWAL OF CEMETERY LICENSE (REPEALED) (History: 37-19-814, MCA; IMP, 37-19-814, MCA; NEW, 2006 MAR p. 1169, Eff. 5/5/06; REP, 2013 MAR p. 1191, Eff. 7/12/13.)

24.147.507 MORTICIAN LICENSES (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.

(2) Applicants must have a minimum of an associate 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. All transcripts must be certified and sent directly from the school(s).

(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. (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-131, 37-19-302, 37-19-303, MCA; Eff. 12/31/72; AMD, 1979 MAR p. 328, Eff. 3/30/79; AMD, 1981 MAR p. 1058, Eff. 9/18/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 815, Eff. 5/18/84; AMD, 1985 MAR p. 1610, Eff. 11/1/85; AMD, 1998 MAR p. 2959, Eff. 11/6/98; AMD, 2000 MAR p. 1630, Eff. 6/30/00; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2006 MAR p. 1169, Eff. 5/5/06; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD, 2016 MAR p. 314, Eff. 2/20/16; AMD & TRANS, from ARM 24.147.402, 2018 MAR p. 440, Eff. 2/24/18; AMD, 2020 MAR p. 670, Eff. 4/18/20.)

24.147.508 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as morticians, mortician interns, crematory operators, and crematory technicians.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States armed forces;
- (b) United States reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as morticians, mortician interns, crematory operators, and crematory technicians. Satisfactory evidence includes:

- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 2017, Eff. 9/5/14.)



24.147.509 EXAMINATIONS (1) 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

(b) a jurisprudence examination prescribed by the board covering the statutes and rules governing the practice of funeral service in Montana.

(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. (History: 37-1-131, 37-19-202, MCA; IMP, 37-1-131, 37-19-302, 37-19-303, 37-19-304, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 2137, Eff. 12/17/82; AMD, 1985 MAR p. 1610, Eff. 11/1/85; AMD, 1989 MAR p. 2193, Eff. 12/22/89; AMD, 1998 MAR p. 2959, Eff. 11/6/98; AMD, 2002 MAR p. 84, Eff. 1/18/02; TRANS, from Commerce, 2002 MAR p. 790; AMD, 2013 MAR p. 1191, Eff. 7/12/13; AMD & TRANS, from ARM 24.147.405, 2018 MAR p. 440, Eff. 2/24/18.)

Subchapters 6 through 8 reserved









































































