

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

In the matter of the proposed) NOTICE OF PUBLIC
amendment of ARM 24.147.1101,) HEARING ON PROPOSED
crematory facility regulation, and) AMENDMENT AND REPEAL
repeal of ARM 24.147.1113,)
designation as crematory operator)
or technician)

TO: All Concerned Persons

1. On March 3, 2005, at 9:00 a.m., a public hearing will be held in room 471, of the Park Avenue Building, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry 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 no later than 5:00 p.m., on February 24, 2005, to advise us of the nature of the accommodation that you need. Please contact Cheryl Smith, Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2393; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdfnr@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.147.1101 CREMATORY FACILITY REGULATION (1) and (2) remain the same.

(3) A licensed crematory shall notify the board office promptly, in writing, of any change of crematory operator.

(3) through (10) remain the same, but are renumbered (4) through (11).

AUTH: 37-1-131, 37-19-202, 37-19-703, MCA
IMP: 37-19-702, 37-19-703, 37-19-705, MCA

REASON: There is reasonable necessity to amend ARM 24.147.1101 in order to maintain the requirement that crematories identify for the Board the crematory operator licensee who is responsible for the operation of the crematory, in conjunction with the proposed repeal of ARM 24.147.1113, which is explained below. In addition, there is reasonable necessity to amend the IMP citations to appropriately identify statutes being implemented.

4. The Board proposes to repeal the following rule:

24.147.1113 DESIGNATION AS CREMATORY OPERATOR OR
TECHNICIAN found at ARM page 24-13645.

AUTH: 37-19-202, MCA
IMP: 37-19-702, MCA

REASON: There is reasonable necessity to repeal ARM 24.147.1113 in order to implement the provisions of 37-1-134, MCA, regarding setting fees commensurate with costs. ARM 24.147.1113(1) has the effect of granting a licensed mortician a separate, additional license as a crematory operator or crematory technician without the payment of a fee. The Board has determined that cost to issue, track, and renew a crematory operator or crematory technician license is the same regardless of whether the applicant also has a license as a mortician. The Board now believes it is inequitable to not charge a license fee for certain applicants (those who hold a mortician's license) while charging a license fee to all other applicants.

Based on the number of existing licensees and anticipated applicants, the Board estimates that approximately 78 persons annually (73 existing licensees and 5 applicants) will be affected by the proposed changes. The Board estimates that it will receive approximately an additional \$4,890 in revenue annually. The Board finds that the increase in revenue will also serve to avoid or postpone the need for raising fees for these two classes of licenses.

The Board notes that the reporting requirement presently contained in ARM 24.147.1113(2) is proposed to be moved to ARM 24.147.1101.

5. 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 by e-mail to dlibsdfnr@mt.gov, and must be received no later than 5:00 p.m., March 11, 2005.

6. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at <http://www.discoveringmontana.com/dli/fnr>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance

or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The Board of Funeral Service 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Funeral Service administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed 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 may be made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Jack Atkins, attorney, has been designated to preside over and conduct this hearing.

BOARD OF FUNERAL SERVICE
JERED SCHERER, CHAIRMAN

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State January 31, 2005.