

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

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT,  
 24.147.302 definitions, 24.147.401, ) ADOPTION, AND REPEAL  
 24.147.402, and 24.147.403 substantive )  
 rules, 24.147.501, 24.147.502, and )  
 24.147.505 licensing, 24.147.901 mortuary )  
 requirements, 24.147.1101, 24.147.1114, )  
 and 24.147.1115 crematory rules, )  
 24.147.1301, 24.147.1302, 24.147.1304, )  
 24.147.1305, 24.147.1312, 24.147.1313, )  
 and 24.147.1314 cemetery regulation rules, )  
 24.147.1501 and 24.147.1503 branch )  
 facilities and prearranged funeral )  
 agreements, 24.147.2108 continuing )  
 education, 24.147.2401 complaint filing, the )  
 adoption of NEW RULE I fee abatement, )  
 NEW RULE II renewal of cemetery licenses,)  
 and the repeal of 24.147.1311 cemetery )  
 authority rules )

TO: All Concerned Persons

1. On March 9, 2006, the Board of Funeral Service (board) published MAR Notice No. 24-147-32 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 642 of the 2006 Montana Administrative Register, issue no. 5.

2. On March 30, 2006, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. No testimony or comments were received at the hearing. One written comment was received by the April 6, 2006, deadline.

3. The board has thoroughly considered the comment received. A summary of the comment received and the board's response are as follows:

COMMENT 1: One comment was received regarding section 46-4-101, MCA, providing that the state medical examiner has jurisdiction if a coroner with jurisdiction of a death fails to act, and the apparent conflict with the proposed amendment to ARM 24.147.1101(10). The commenter is aware of a situation where the state medical examiner was required to act under this statute and asserted that this portion of the rule has a valid purpose as a part of the "checks and balances" concept of our form of government.

RESPONSE 1: The board concurs with the comment and will not amend section (10) of this rule.

4. The board has amended ARM 24.147.302, 24.147.401, 24.147.402, 24.147.403, 24.147.501, 24.147.502, 24.147.505, 24.147.901, 24.147.1114, 24.147.1115, 24.147.1301, 24.147.1302, 24.147.1304, 24.147.1305, 24.147.1312, 24.147.1313, 24.147.1314, 24.147.1501, 24.147.1503, 24.147.2108, and 24.147.2401 exactly as proposed.

5. The board has adopted NEW RULE I (24.147.404) and NEW RULE II (24.147.506) exactly as proposed.

6. The board has repealed ARM 24.147.1311 exactly as proposed.

7. The board has amended ARM 24.147.1101 with the following changes, stricken matter interlined, new matter underlined:

24.147.1101 CREMATORY FACILITY REGULATION (1) through (9) remain as proposed.

(10) Prior to beginning the cremation process, the crematory must have in its possession, written authorization(s) bearing the original, photocopied, or facsimile signatures of the authorizing agent and, if the death occurred in Montana, the coroner having jurisdiction or the state medical examiner. In addition, the following information must be included in the authorization and kept on record:

(a) through (11) remain as proposed.

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

BOARD OF FUNERAL SERVICE  
R.J. (DICK) BROWN, CHAIRPERSON

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

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

Certified to the Secretary of State April 24, 2006