

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

In the matter of the	)	NOTICE OF AMENDMENT
amendment of ARM 24.147.302,	)	AND ADOPTION
funeral service definitions,	)	
ARM 24.147.401, fee schedule,	)	
ARM 24.147.1101, crematory facility)	)	
regulation, ARM 24.147.1114,	)	
licensure as a crematory operator,	)	
ARM 24.147.1115, licensure as a	)	
crematory technician,	)	
ARM 24.147.1304, perpetual care and)	)	
maintenance fund reports, and the	)	
adoption of NEW RULE I	)	
pertaining to audit expenses	)	

TO: All Concerned Persons

1. On April 8, 2004, the Board of Funeral Service published MAR Notice No. 24-147-30 regarding the public hearing on the proposed amendment and adoption of the above-stated rules at page 709 of the 2004 Montana Administrative Register, issue no 7.

2. On May 11, 2004, a public hearing on the proposed amendment and adoption of the above-stated rules was conducted in Helena. The Board of Funeral Service (Board) has thoroughly considered all of the comments made. A summary of the comments received (grouped by rule) and the Board's responses are as follows:

ARM 24.147.302 FUNERAL SERVICE DEFINITIONS

Comment 1: One commenter suggested that "or substances" be added after "any foreign object" and that "or processor" be added after "to the crematory retort."

Response 1: The Board agreed that "or substances" should be added after "any foreign object" and that "or related equipment" should be added after "to the crematory retort." The Board was desirous of leaving the definition of "hazardous implant" as broad as possible to accommodate yet unknown and undeveloped "objects" and "substances" that would fall within the definition.

ARM 24.147.1114 LICENSURE AS A CREMATORY OPERATOR

Comment 2: One commenter stated that he was unaware as to whether or not eliminating the requirement to obtain a letter of good moral character from a mortician was a good idea.

Response 2: The Board wishes to thank the commenter for his concern. The Board believes that an applicant should be able to submit letters from persons attesting to his/her good moral character regardless of their profession or occupation. The Board adopts the rule as proposed.

ARM 24.147.1304 PERPETUAL CARE AND MAINTENANCE FUND REPORTS

Comment 3: One commenter stated that she would like to have the rule define what circumstance would cause the Board to require an audit.

Response 3: The Board's responsibility is to protect the public health, safety and welfare. If the Board had reasonable cause to believe that there were financial or accounting irregularities with a perpetual care and maintenance fund it could order an audit. It is not appropriate to attempt to specify, with particularity, what the triggering events would be to move the Board to order an audit.

3. The Board has amended ARM 24.147.401, 24.147.1101, 24.147.1114, 24.147.1115, 24.147.1304 and NEW RULE I (ARM 24.147.1305) exactly as proposed.

4. After consideration of the comments, the Board has amended ARM 24.147.302 as proposed, but with the following changes, stricken matter interlined, new matter underlined:

24.147.302 FUNERAL SERVICE DEFINITIONS (1) and (2) remain as proposed.

(3) "Hazardous implants" is defined as being 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 operator or crematory retort or related equipment during the cremation process, or to the public.

(3) through (12) remain as proposed.

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

IMP: 37-19-705, 37-19-827, 37-19-828, 37-19-829, MCA

BOARD OF FUNERAL SERVICE  
JERED SCHERER, CHAIRMAN

/s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER  
Mark Cadwallader  
Alternate Rule Reviewer

Certified to the Secretary of State July 12, 2004

14-7/22/04

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