

HOUSE BILL NO. 474

INTRODUCED BY PAVLOVICH, J. BROWN, MENAHAN

BY REQUEST OF THE BOARD OF MORTICIANS

IN THE HOUSE

January 25, 1985	Introduced and referred to Committee on Business and Labor.
February 13, 1985	Committee recommend bill do pass as amended. Report adopted.
February 14, 1985	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass as amended.  Statement of Intent attached.
February 18, 1985	Correctly engrossed.
February 19, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

February 21, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 7, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 11, 1985	Second reading, concurrred in as amended.

March 13, 1985

Third reading, concurred in.  
Ayes, 49; Noes, 1.

Returned to House with  
amendments.

IN THE HOUSE

March 14, 1985

Received from Senate.

April 5, 1985

Second reading, amendments  
concurred in.

April 8, 1985

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

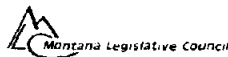
1 HOUSE BILL NO. 474  
 2 INTRODUCED BY Patrick J. Brown Mendham  
 3 BY REQUEST OF THE BOARD OF MORTICIANS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE  
 6 REQUIREMENTS TO QUALIFY FOR A MORTICIAN'S OR INTERN  
 7 MORTICIAN'S LICENSE; REMOVING THE NECESSITY FOR A RECIPROCAL  
 8 AGREEMENT WITH ANOTHER STATE TO QUALIFY AN APPLICANT FOR  
 9 LICENSURE BY RECIPROCITY; PROVIDING THAT VIOLATION OF RULES  
 10 ON UNPROFESSIONAL CONDUCT ADOPTED BY THE BOARD MAY BE  
 11 GROUNDS FOR REFUSING TO GRANT, SUSPENDING, OR REVOKING A  
 12 MORTICIAN'S OR FUNERAL DIRECTOR'S LICENSE; AMENDING SECTIONS  
 13 37-19-302, 37-19-304, 37-19-305, AND 37-19-311, MCA; AND  
 14 PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 37-19-302, MCA, is amended to read:  
 18 "37-19-302. License required for practice of mortuary  
 19 science -- qualifications of applicants. The practice of  
 20 embalming or mortuary science by anyone who does not hold a  
 21 mortician's license issued by the department board is  
 22 prohibited. A person 18 years of age or older wishing to  
 23 practice mortuary science in this state must apply to the  
 24 board on the form and in the manner prescribed by the board.  
 25 To qualify for a mortician's license, a person must:

- 1 (1) be of good moral character;
  - 2 (2) ~~have--graduated--from--an--accredited--college--of~~  
 3 ~~mortuary--science--and--have~~ present evidence of having  
 4 satisfactorily completed 2 full academic years of study at  
 5 an accredited college or university or--have--experience  
 6 considered-equivalent-by-the-board;
  - 7 (3) in addition to the 2 years of study required in  
 8 subsection (2), have graduated with a diploma from an  
 9 accredited college of mortuary science;
  - 10 (3)(4) pass an examination prescribed by the board;. A  
 11 person who fails the examination may retake it under  
 12 conditions prescribed by rule of the board.
  - 13 (4)(5) serve a 1-year internship under the supervision  
 14 of a licensed mortician in a licensed mortuary in Montana  
 15 after passing the examination provided for in subsection  
 16 (4)."
- 17 Section 2. Section 37-19-304, MCA, is amended to read:  
 18 "37-19-304. Issuance of intern's license -- license  
 19 fee -- issuance of mortician's license on completion of  
 20 internship. An applicant who passes the examination provided  
 21 for in 37-19-302 shall, upon payment of a license fee  
 22 prescribed by the board, ~~shall~~ be granted an intern  
 23 mortician's license to practice mortuary science under the  
 24 supervision of a licensed mortician in a licensed mortuary  
 25 in Montana and, upon completion of 1 year's internship and



1 payment of the annual license fee, may apply for and receive  
2 a mortician's license."

3 Section 3. Section 37-19-305, MCA, is amended to read:

4 "37-19-305. Reciprocity. If a person holding a license  
5 entitling him to practice mortuary science in another state  
6 applies for a Montana mortician's license, the board may  
7 waive the examination and internship requirements if it  
8 finds that the standards and requirements of the state in  
9 which the applicant is licensed are equal to or exceed those  
10 of Montana ~~and if a reciprocal agreement is required by the~~  
11 ~~other state, it has a reciprocal agreement with Montana."~~

12 Section 4. Section 37-19-311, MCA, is amended to read:

13 "37-19-311. Refusal, suspension, or revocation of  
14 mortician's or funeral director's license. The board may  
15 refuse to grant, may suspend, or may revoke a mortician's or  
16 funeral director's license for any of the following reasons:

17 (1) if the applicant or licensee obtained the license  
18 by fraud or misrepresentation, either in the application for  
19 the license or in passing the examination;

20 (2) if the applicant or licensee has violated any  
21 section of this chapter or any rule of the state, district,  
22 or local board of health governing the disposition of dead  
23 human bodies or any rule of the board regulating the  
24 professions of mortuary science or funeral directing or the  
25 operation of a mortuary;

1 (3) if the licensee has participated in any scheme in  
2 the nature of a burial association or burial certificate  
3 plan:

4 (a) which does not properly protect the rights of the  
5 public;

6 (b) where there is any element of fraud; or

7 (c) where there is contained any agreement or  
8 provision that deprives heirs, next of kin, or any other  
9 authorized person freedom of choice as to the services or  
10 merchandise used in connection with a funeral or the freedom  
11 of choice as to which funeral directors or morticians shall  
12 be employed;

13 (4) if the applicant or licensee violates rules  
14 adopted by the board which define unprofessional conduct on  
15 the part of applicants and licensees."

16 NEW SECTION. Section 5. Extension of authority. Any  
17 existing authority of the board of morticians to make rules  
18 on the subject of the provisions of this act is extended to  
19 the provisions of this act.

20 NEW SECTION. Section 6. Severability. If a part of  
21 this act is invalid, all valid parts that are severable from  
22 the invalid part remain in effect. If a part of this act is  
23 invalid in one or more of its applications, the part remains  
24 in effect in all valid applications that are severable from  
25 the invalid applications.

LC 0967/01

1        NEW SECTION. Section 7. Effective date. This act is  
2 effective on passage and approval.

-End-

APPROVED BY COMM. ON  
BUSINESS AND LABOR

HOUSE BILL NO. 474

INTRODUCED BY PAVLOVICH, J. BROWN, MENAHAN

BY REQUEST OF THE BOARD OF MORTICIANS

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE REQUIREMENTS TO QUALIFY FOR A MORTICIAN'S OR INTERN MORTICIAN'S LICENSE; ~~REMOVING THE NECESSITY FOR A RECIPROCAL AGREEMENT WITH ANOTHER STATE TO QUALIFY AN APPLICANT FOR LICENSURE BY RECIPROCALITY~~; PROVIDING THAT VIOLATION OF RULES ON UNPROFESSIONAL CONDUCT ADOPTED BY THE BOARD MAY BE GROUNDS FOR REFUSING TO GRANT, SUSPENDING, OR REVOKING A MORTICIAN'S OR FUNERAL DIRECTOR'S LICENSE; AMENDING SECTIONS 37-19-302, 37-19-304, ~~37-19-305~~, AND 37-19-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-19-302, MCA, is amended to read:

"37-19-302. License required for practice of mortuary science -- qualifications of applicants. The practice of embalming or mortuary science by anyone who does not hold a mortician's license issued by the department board is prohibited. A person 18 years of age or older wishing to practice mortuary science in this state must apply to the board on the form and in the manner prescribed by the board.

To qualify for a mortician's license, a person must:

(1) be of good moral character;

(2) ~~have graduated from an accredited college of mortuary science and have~~ present evidence of having satisfactorily completed 2 full academic years 90 QUARTER CREDITS OR THE EQUIVALENT of study at an accredited college or university ~~or have experience considered equivalent by the board~~ OR HAVE EXPERIENCE CONSIDERED EQUIVALENT BY THE BOARD;

(3) in addition to the 2 years of study required in subsection (2), have graduated with a diploma from an accredited college of mortuary science;

~~(3)~~(4) pass an examination prescribed by the board. A person who fails the examination may retake it under conditions prescribed by rule of the board.

~~(4)~~(5) serve a 1-year internship under the supervision of a licensed mortician in a licensed mortuary in Montana after passing the examination provided for in subsection (4)."

Section 2. Section 37-19-304, MCA, is amended to read:

"37-19-304. Issuance of intern's license -- license fee -- issuance of mortician's license on completion of internship. An applicant who passes the examination provided for in 37-19-302 shall, upon payment of a license fee prescribed by the board, ~~shall~~ be granted an intern mortician's license to practice mortuary science under the

1 supervision of a licensed mortician in a licensed mortuary  
 2 in Montana and, upon completion of 1 year's internship and  
 3 payment of the annual license fee, may apply for and receive  
 4 a mortician's license."

5 ~~Section 3. Section 37-19-305, MCA, is amended to read:~~  
 6 ~~"37-19-305. Reciprocity. If a person holding a~~  
 7 ~~license entitling him to practice mortuary science in~~  
 8 ~~another state applies for a Montana mortician's license, the~~  
 9 ~~board may waive the examination and internship requirements~~  
 10 ~~if it finds that the standards and requirements of the state~~  
 11 ~~in which the applicant is licensed are equal to or exceed~~  
 12 ~~those of Montana and if a reciprocal agreement is required~~  
 13 ~~by the other state, it has a reciprocal agreement with~~  
 14 ~~Montana."~~

15 Section 3. Section 37-19-311, MCA, is amended to read:  
 16 "37-19-311. Refusal, suspension, or revocation of  
 17 mortician's or funeral director's license. The board may  
 18 refuse to grant, may suspend, or may revoke a mortician's or  
 19 funeral director's license for any of the following reasons:

- 20 (1) if the applicant or licensee obtained the license  
 21 by fraud or misrepresentation, either in the application for  
 22 the license or in passing the examination;  
 23 (2) if the applicant or licensee has violated any  
 24 section of this chapter or any rule of the state, district,  
 25 or local board of health governing the disposition of dead

1 human bodies or any rule of the board regulating the  
 2 professions of mortuary science or funeral directing or the  
 3 operation of a mortuary;

4 (3) if the licensee has participated in any scheme in  
 5 the nature of a burial association or burial certificate  
 6 plan:

7 (a) which does not properly protect the rights of the  
 8 public;

9 (b) where there is any element of fraud; or

10 (c) where there is contained any agreement or  
 11 provision that deprives heirs, next of kin, or any other  
 12 authorized person freedom of choice as to the services or  
 13 merchandise used in connection with a funeral or the freedom  
 14 of choice as to which funeral directors or morticians shall  
 15 be employed;

16 (4) if the applicant or licensee violates rules  
 17 adopted by the board which define unprofessional conduct on  
 18 the part of applicants and licensees."

19 NEW SECTION. Section 4. Extension of authority. Any  
 20 existing authority of the board of morticians to make rules  
 21 on the subject of the provisions of this act is extended to  
 22 the provisions of this act.

23 NEW SECTION. Section 5. Severability. If a part of  
 24 this act is invalid, all valid parts that are severable from  
 25 the invalid part remain in effect. If a part of this act is

1   invalid in one or more of its applications, the part remains  
2   in effect in all valid applications that are severable from  
3   the invalid applications.

4       NEW SECTION. Section 6. Effective date. This act is  
5   effective on passage and approval.

-End-



1 STATEMENT OF INTENT

2 HOUSE BILL 474

3 House Business and Labor Committee

4

5 It is the intent of the legislature by this bill that  
6 the board of morticians be delegated authority to adopt  
7 rules to:

8 (1) determine under what conditions unsuccessful  
9 applicants for licenses to practice mortuary science may  
10 retake the appropriate examination;

11 (2) grant special consideration as to recognition of  
12 internship qualifications in hardship cases; and

13 (3) define "unprofessional conduct" for license  
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(3) in addition to the 90 QUARTER CREDITS OR THE EQUIVALENT 2 years of study required in subsection (2), have graduated with a diploma from an accredited college of mortuary science;

(4) pass an examination prescribed by the board. A person who fails the examination may retake it under conditions prescribed by rule of the board.

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 3 professions of mortuary science or funeral directing or the  
 4 operation of a mortuary;

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8 (a) which does not properly protect the rights of the  
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20 NEW SECTION. Section 4. Extension of authority. Any  
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-End-

STANDING COMMITTEE REPORT

SENATE

MARCH 6, 1985

SENATE PUBLIC HEALTH  
PAGE 2 of 2  
HB 474

MARCH 6, 1985

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY  
having had under consideration HOUSE BILL No 474

THIRD reading copy (BLUE color)

REVISING LAWS CONCERNING LICENSING OF MORTICIANS AND FUNERAL DIRECTORS

PAVLOVICH (LYNCH)

Respectfully report as follows: That HOUSE BILL No. 474

BE AMENDED AS FOLLOWS:

- 1. Title, lines 13 and 14.  
Following: "MCA" on line 13  
Strike: remainder of line 13 through "DATE" on line 14
- 2. Page 1, line 19.  
Following: "applicants."  
Insert: "(1)"
- 3. Page 1, line 25.  
Following: line 24  
Insert: "(2)"
- 4. Page 2, line 1.  
Strike: "(1)"  
Insert: "(a)"

(continued)  
PAGE 1 of 2

5. Page 2, line 2.  
Following: line 1  
Strike: "(2)"  
Insert: "(b)"

6. Page 2, line 9.  
Following: line 8  
Strike: "(3)"  
Insert: "(c)"

7. Page 2, line 10.  
Following: "EQUIVALENT"  
Strike: "2 years"  
Following: "subsection"  
Strike: "(2)"  
Insert: "(b)"

8. Page 2, line 13.  
Strike: "(4)"  
Insert: "(d)"

9. Page 2, lines 13 through 15.  
Following: "board" on line 13  
Strike: remainder of line 13 through "board." in line 15  
Insert: "; and"

10. Page 2, line 16.  
Following: line 15  
Strike: "(5)"  
Insert: "(e)"

11. Page 2, line 19.  
Following: line 18  
Strike: "(4)"  
Insert: "(d)"

12. Page 2, line 20.  
Following: line 19  
Insert: "(3) A person who fails the examination required in subsection (d) may retake it under conditions prescribed by rule of the board."

13. Page 5, lines 5 and 6.  
Strike: section 6 in its entirety

XXXXXX  
XXXXXXXXXX

*JLJ*  
Chairman

*Jc*

AS AMENDED  
BE CONCURRED IN

*Buddy Jacobson*  
SENATOR BUDD JACOBSON

COMMITTEE OF THE WHOLE AMENDMENT

SENATE

3-11-85

DATE

11:30 a.m.

TIME

MR. CHAIRMAN: I MOVE TO AMEND HOUSE BILL No. 474

third reading copy ( blue ) as follows:  
Color

Page 2, lines 7 and 8.

Following: "board" on line 7

Strike: "OR HAVE EXPERIENCE CONSIDERED EQUIVALENT BY THE BOARD"

ADOPT

REJECT

*A. Lynch*  
LYNCH

1 STATEMENT OF INTENT

2 HOUSE BILL 474

3 House Business and Labor Committee

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- (1) determine under what conditions unsuccessful applicants for licenses to practice mortuary science may retake the appropriate examination;
- (2) grant special consideration as to recognition of internship qualifications in hardship cases; and
- (3) define "unprofessional conduct" for license disciplinary purposes.

REFERENCE BILL  
HB 474



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must:

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(3)(C) in addition to the 90 QUARTER CREDITS OR THE EQUIVALENT 2-years of study required in subsection (2) (B), have graduated with a diploma from an accredited college of mortuary science;

(4)(D) pass an examination prescribed by the board,--A--person--who--fails--the--examination--may--retake--it under-conditions-prescribed-by-rule-of-the-board;; AND

(5)(E) serve a 1-year internship under the supervision of a licensed mortician in a licensed mortuary in Montana after passing the examination provided for in subsection (4) (2)(D).

(3) A PERSON WHO FAILS THE EXAMINATION REQUIRED IN SUBSECTION (2)(D) MAY RETAKE IT UNDER CONDITIONS PRESCRIBED BY RULE OF THE BOARD."

Section 2. Section 37-19-304, MCA, is amended to read:

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 2 the license or in passing the examination;

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 4 section of this chapter or any rule of the state, district,  
 5 or local board of health governing the disposition of dead  
 6 human bodies or any rule of the board regulating the  
 7 professions of mortuary science or funeral directing or the  
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