

A bill for an act

relating to mortuary science; changing provisions for coroner or medical examiner duties; amending Minnesota Statutes 2010, sections 144.221, by adding a subdivision; 149A.01, subdivisions 3, 4; 149A.02, subdivisions 3, 5, 13a, 16, 19, 30, 36, by adding subdivisions; 149A.03; 149A.50, subdivisions 1, 2; 149A.52, subdivision 2; 149A.70, subdivision 6; 149A.71, subdivisions 2, 4; 149A.72, subdivision 2; 149A.80, subdivisions 2, 5, 6, 7; 149A.90; 149A.91, subdivisions 2, 3, 6; 149A.93, subdivisions 1, 2, 6, 7; 149A.94, subdivisions 1, 3; 149A.95, subdivisions 6, 7, 20; 149A.96, subdivisions 1, 4, 7; proposing coding for new law in Minnesota Statutes, chapter 306; repealing Minnesota Statutes 2010, section 149A.02, subdivision 29.

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

Section 1. Minnesota Statutes 2010, section 144.221, is amended by adding a subdivision to read:

Subd. 4. **Certificate of final disposition.** Within five days of final disposition, the person supervising final disposition shall electronically file with the state registrar a certification of final disposition which shall include the following information:

(1) the name of the deceased and the identification number assigned to the body;

(2) the date, time, and location where the final disposition occurred (burial, entombment, cremation);

(3) the name of the cemetery or crematory;

(4) the name and address to whom any remains were released; and

(5) the time, date, manner, and location of the scattering or burial of the cremated remains if known to the licensee.

The state registrar shall make this information part of the decedent's final death certificate.

H.F. No. 1744, as introduced - 87th Legislative Session (2011-2012) [11-2420]

Sec. 2. Minnesota Statutes 2010, section 149A.01, subdivision 3, is amended to read:

Subd. 3. **Exceptions to licensure.** (a) Except as otherwise provided in this chapter, nothing in this chapter shall in any way interfere with the duties of:

(1) an anatomical bequest program located within an accredited school of medicine or an accredited college of mortuary science;

(2) a person engaged in the performance of duties prescribed by law relating to the conditions under which unclaimed dead human bodies are held subject to anatomical study;

(3) authorized personnel from a licensed ambulance service in the performance of their duties;

(4) licensed medical personnel in the performance of their duties; or

(5) the coroner or medical examiner in the performance of the duties of their offices.

(b) This chapter does not apply to or interfere with the recognized customs or rites of any culture or recognized religion in the ceremonial washing, dressing, or casketing, ~~and public transportation~~ of their dead, to the extent that all other provisions of this chapter are complied with.

~~(c) Noncompensated persons with the right to control the dead human body, under section 149A.80, subdivision 2, may remove a body from the place of death; transport the body; prepare the body for disposition, except embalming; or arrange for final disposition of the body, provided that all actions are in compliance with this chapter.~~

~~(d)~~ (c) Persons serving internships pursuant to section 149A.20, subdivision 6, or students officially registered for a practicum or clinical through a program of mortuary science accredited by the American Board of Funeral Service Education are not required to be licensed, provided that the persons or students are registered with the commissioner and act under the direct and exclusive supervision of a person holding a current license to practice mortuary science in Minnesota.

~~(e)~~ (d) Notwithstanding this subdivision, nothing in this section shall be construed to prohibit an institution or entity from establishing, implementing, or enforcing a policy that permits only persons licensed by the commissioner to remove or cause to be removed a dead body or body part from the institution or entity.

~~(f)~~ (e) An unlicensed person may arrange for and direct or supervise a memorial service if that person or that person's employer does not have charge of the dead human body. An unlicensed person may not take charge of the dead human body, unless that person has the right to control the dead human body under section 149A.80, subdivision 2, or is that person's noncompensated designee.

Sec. 3. Minnesota Statutes 2010, section 149A.01, subdivision 4, is amended to read:

Subd. 4. **Nonlimiting.** (a) Nothing in this chapter shall be construed to limit the powers granted to the commissioner of health, commissioner of commerce, state attorney general, or a county attorney in any other statute, law, or rule, except as described in paragraph (b).

(b) A county, within its jurisdiction as a coroner or medical examiner, may establish transportation standards for transporting a dead human body from the death scene ~~to the place where an autopsy is to be conducted, so long as the standards do not specifically require that the transporter be a licensed funeral director.~~ throughout the entire time the body is in the custody of the coroner or medical examiner.

Sec. 4. Minnesota Statutes 2010, section 149A.02, subdivision 3, is amended to read:

Subd. 3. **Arrangements for Disposition.** ~~"Arrangements for Disposition"~~ means any action normally taken by a funeral provider in anticipation of or preparation for the entombment, burial in a cemetery, or cremation of a dead human body.

Sec. 5. Minnesota Statutes 2010, section 149A.02, subdivision 5, is amended to read:

Subd. 5. **Casket.** "Casket" means a rigid container which is designed for the encasement of a dead human body and is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric. Caskets are funeral goods under subdivision 21.

Sec. 6. Minnesota Statutes 2010, section 149A.02, subdivision 13a, is amended to read:

Subd. 13a. **Direct supervision.** "Direct supervision" means overseeing the performance of an individual. For the purpose of a clinical, practicum, or internship, direct supervision means that the supervisor is available to observe and correct, as needed, the performance of the trainee. ~~The mortician~~ funeral director supervisor is accountable for the actions of the clinical student, practicum student, or intern throughout the course of the training. The supervising ~~mortician~~ funeral director is accountable for any violations of law or rule, in the performance of their duties, by the clinical student, practicum student, or intern.

Sec. 7. Minnesota Statutes 2010, section 149A.02, subdivision 16, is amended to read:

Subd. 16. **Final disposition.** "Final disposition" means ~~the acts leading to and the entombment, burial in a cemetery, or cremation of a dead human body.~~ disposing of a dead human body by burial in a cemetery, entombment, hydrolysis, or cremation.

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Sec. 8. Minnesota Statutes 2010, section 149A.02, subdivision 19, is amended to read:

Subd. 19. **Funeral director.** "Funeral director" means ~~any person~~ a person licensed to practice mortuary science who practices the art of embalming and who, for compensation, arranges, directs, or supervises funerals, memorial services, or graveside services, or engages in the business or practice of preparing dead human bodies for final disposition by means other than embalming. The titles funeral director and mortician are synonymous and both may be used by licensed funeral directors.

Sec. 9. Minnesota Statutes 2010, section 149A.02, subdivision 30, is amended to read:

Subd. 30. **Mortuary science.** "Mortuary science" means the study and practice of preparing dead human bodies for final disposition and providing funeral services. Mortuary science includes any conduct or action associated with the removal, preparation, transportation, arrangements for disposition, or final disposition of dead human bodies, including the actions and duties of a ~~mortician or a~~ funeral director.

Sec. 10. Minnesota Statutes 2010, section 149A.02, is amended by adding a subdivision to read:

Subd. 34a. **Private building.** "Private building" means a building that is not frequented by, nor open to, the public.

Sec. 11. Minnesota Statutes 2010, section 149A.02, subdivision 36, is amended to read:

Subd. 36. **Professional services.** "Professional services" means the basic services of the funeral director ~~or mortician~~ and staff that are furnished by the funeral provider in arranging final disposition. The services include, but are not limited to, conducting the arrangement conference; planning visitations and the funeral, memorial service, or graveside service; arranging for final disposition by securing, preparing, and filing necessary permits and documents; and placing obituary notices.

Sec. 12. Minnesota Statutes 2010, section 149A.02, is amended by adding a subdivision to read:

Subd. 36a. **Public building.** "Public building" means every building used as a place of public assembly or a place of public resort or that is open to the public during normal business hours, including any nonprofit school, place of worship, or hospital.

Sec. 13. Minnesota Statutes 2010, section 149A.03, is amended to read:

149A.03 DUTIES OF COMMISSIONER.

5.1 The commissioner shall:

5.2 (1) enforce all laws and adopt and enforce rules relating to the:

5.3 (i) removal, preparation, transportation, arrangements for disposition, and final

5.4 disposition of dead human bodies;

5.5 (ii) licensure and professional conduct of funeral directors, ~~morticians~~, interns,

5.6 practicum students, and clinical students;

5.7 (iii) licensing and operation of a funeral establishment; and

5.8 (iv) licensing and operation of a crematory;

5.9 (2) provide copies of the requirements for licensure and permits to all applicants;

5.10 (3) administer examinations and issue licenses and permits to qualified persons

5.11 and other legal entities;

5.12 (4) maintain a record of the name and location of all current licensees and interns;

5.13 (5) perform periodic compliance reviews and premise inspections of licensees;

5.14 (6) accept and investigate complaints relating to conduct governed by this chapter;

5.15 (7) maintain a record of all current preneed arrangement trust accounts;

5.16 (8) maintain a schedule of application, examination, permit, and licensure fees,

5.17 initial and renewal, sufficient to cover all necessary operating expenses;

5.18 (9) educate the public about the existence and content of the laws and rules for

5.19 mortuary science licensing and the removal, preparation, transportation, arrangements

5.20 for disposition, and final disposition of dead human bodies to enable consumers to file

5.21 complaints against licensees and others who may have violated those laws or rules;

5.22 (10) evaluate the laws, rules, and procedures regulating the practice of mortuary

5.23 science in order to refine the standards for licensing and to improve the regulatory and

5.24 enforcement methods used; and

5.25 (11) initiate proceedings to address and remedy deficiencies and inconsistencies in

5.26 the laws, rules, or procedures governing the practice of mortuary science and the removal,

5.27 preparation, transportation, arrangements for disposition, and final disposition of dead

5.28 human bodies.

5.29 Sec. 14. Minnesota Statutes 2010, section 149A.50, subdivision 1, is amended to read:

5.30 Subdivision 1. **License required.** Except as provided in section 149A.01,

5.31 subdivision 3, no person shall maintain, manage, or operate a place or premise devoted to

5.32 or used in the holding, care, or preparation of a dead human body for final disposition,

5.33 or any place used as the office or place of business for the provision of funeral services,

5.34 or funeral goods, without possessing a valid license to operate a funeral establishment

5.35 issued by the commissioner of health.

Sec. 15. Minnesota Statutes 2010, section 149A.50, subdivision 2, is amended to read:

Subd. 2. **Requirements for funeral establishment.** A funeral establishment licensed under this section must:

- (1) contain a preparation and embalming room as described in section 149A.92;
- (2) contain office space for making arrangements; ~~and~~
- (3) comply with applicable local and state building codes, zoning laws, and ordinances; and
- (4) employ a licensed funeral director.

Sec. 16. Minnesota Statutes 2010, section 149A.52, subdivision 2, is amended to read:

Subd. 2. **Requirements for crematory.** (a) A crematory licensed under this section must ~~consist of~~:

- (1) maintain a building or structure that complies with applicable local and state building codes, zoning laws and ordinances, and environmental standards, containing one or more cremation chambers or retorts for the cremation of dead human bodies;
- (2) maintain a motorized mechanical device for grinding, crushing, or pulverizing the cremated remains to a granulated appearance appropriate for final disposition; ~~and~~
- (3) maintain an appropriate holding facility for dead human bodies awaiting cremation; and
- (4) employ a licensed funeral director.

(b) A crematory licensed under this section may also contain a display room for funeral goods.

Sec. 17. Minnesota Statutes 2010, section 149A.70, subdivision 6, is amended to read:

Subd. 6. **Use of unlicensed personnel; interns; and practicum students.** Except as otherwise provided in this chapter, a licensed funeral establishment may not employ unlicensed personnel to perform the duties of a funeral director ~~or mortician~~. A licensee may be personally assisted by a nonlicensed employee when removing a dead human body from the place of death and in the lifting of a dead human body at the funeral establishment. The nonlicensed employee must be in the immediate physical presence of the licensee in charge at all times. The funeral establishment and the individual licensee are responsible for compliance and training of the nonlicensed employee outlined in sections 149A.90, subdivision 6, and 149A.92, subdivisions 7 and 10, and shall be fully accountable for all actions of the nonlicensed employee.

Sec. 18. Minnesota Statutes 2010, section 149A.71, subdivision 2, is amended to read:

7.1 Subd. 2. **Preventive requirements.** (a) To prevent unfair or deceptive acts or
7.2 practices, the requirements of this subdivision must be met.

7.3 (b) Funeral providers must tell persons who ask by telephone about the funeral
7.4 provider's offerings or prices any accurate information from the price lists described in
7.5 paragraphs (c) to (e) and any other readily available information that reasonably answers
7.6 the questions asked.

7.7 (c) Funeral providers must make available for viewing to people who inquire in
7.8 person about the offerings or prices of funeral goods or burial site goods, separate printed
7.9 or typewritten price lists using a ten-point font or larger. Each funeral provider must have a
7.10 separate price list for each of the following types of goods that are sold or offered for sale:

7.11 (1) caskets;

7.12 (2) alternative containers;

7.13 (3) outer burial containers;

7.14 (4) cremation containers;

7.15 (5) cremated remains containers;

7.16 (6) markers; and

7.17 (7) headstones.

7.18 (d) Each separate price list must contain the name of the funeral provider's place of
7.19 business, address, and telephone number and a caption describing the list as a price list for
7.20 one of the types of funeral goods or burial site goods described in paragraph (c), clauses
7.21 (1) to (7). The funeral provider must offer the list upon beginning discussion of, but in any
7.22 event before showing, the specific funeral goods or burial site goods and must provide a
7.23 photocopy of the price list, for retention, if so asked by the consumer. The list must
7.24 contain, at least, the retail prices of all the specific funeral goods and burial site goods
7.25 offered which do not require special ordering, enough information to identify each, and
7.26 the effective date for the price list. However, funeral providers are not required to make a
7.27 specific price list available if the funeral providers place the information required by this
7.28 paragraph on the general price list described in paragraph (e).

7.29 (e) Funeral providers must give a printed price list, for retention, to persons who
7.30 inquire in person about the funeral goods, funeral services, burial site goods, or burial site
7.31 services or prices offered by the funeral provider. The funeral provider must give the list
7.32 upon beginning discussion of either the prices of or the overall type of funeral service or
7.33 disposition or specific funeral goods, funeral services, burial site goods, or burial site
7.34 services offered by the provider. This requirement applies whether the discussion takes
7.35 place in the funeral establishment or elsewhere. However, when the deceased is removed
7.36 for transportation to the funeral establishment, an in-person request for authorization to

embalm does not, by itself, trigger the requirement to offer the general price list. If the provider, in making an in-person request for authorization to embalm, discloses that embalming is not required by law except in certain special cases, the provider is not required to offer the general price list. Any other discussion during that time about prices or the selection of funeral goods, funeral services, burial site goods, or burial site services triggers the requirement to give the consumer a general price list. The general price list must contain the following information:

(1) the name, address, and telephone number of the funeral provider's place of business;

(2) a caption describing the list as a "general price list";

(3) the effective date for the price list;

(4) the retail prices, in any order, expressed either as a flat fee or as the prices per hour, mile, or other unit of computation, and other information described as follows:

(i) forwarding of remains to another funeral establishment, together with a list of the services provided for any quoted price;

(ii) receiving remains from another funeral establishment, together with a list of the services provided for any quoted price;

(iii) separate prices for each cremation offered by the funeral provider, with the price including an alternative or cremation container, any crematory charges, and a description of the services and container included in the price, where applicable, and the price of cremation where the purchaser provides the container;

(iv) separate prices for each immediate burial offered by the funeral provider, including a casket or alternative container, and a description of the services and container included in that price, and the price of immediate burial where the purchaser provides the casket or alternative container;

(v) transfer of remains to the funeral establishment or other location;

(vi) embalming;

(vii) other preparation of the body;

(viii) use of facilities, equipment, or staff for viewing;

(ix) use of facilities, equipment, or staff for funeral ceremony;

(x) use of facilities, equipment, or staff for memorial service;

(xi) use of equipment or staff for graveside service;

(xii) hearse or funeral coach;

(xiii) limousine; and

(xiv) separate prices for all cemetery-specific goods and services, including all goods and services associated with interment and burial site goods and services and excluding markers and headstones;

(5) the price range for the caskets offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or casket sale location." or the prices of individual caskets, as disclosed in the manner described in paragraphs (c) and (d);

(6) the price range for the alternative containers offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or alternative container sale location." or the prices of individual alternative containers, as disclosed in the manner described in paragraphs (c) and (d);

(7) the price range for the outer burial containers offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or outer burial container sale location." or the prices of individual outer burial containers, as disclosed in the manner described in paragraphs (c) and (d);

(8) the price range for the cremation containers offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral establishment or cremation container sale location." or the prices of individual cremation containers and cremated remains containers, as disclosed in the manner described in paragraphs (c) and (d);

(9) the price range for the cremated remains containers offered by the funeral provider, together with the statement, "A complete price list will be provided at the funeral establishment or cremation container sale location," or the prices of individual cremation containers as disclosed in the manner described in paragraphs (c) and (d);

(10) the price for the basic services of funeral provider and staff, together with a list of the principal basic services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement "This fee for our basic services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)" If the charge cannot be declined by the purchaser, the quoted price shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services." This services fee is the only funeral provider fee for services, facilities, or unallocated overhead permitted by this subdivision to be nondeclinable, unless otherwise required by law;

(11) the price range for the markers and headstones offered by the funeral provider, together with the statement "A complete price list will be provided at the funeral

establishment or marker or headstone sale location." or the prices of individual markers and headstones, as disclosed in the manner described in paragraphs (c) and (d); and

(12) any package priced funerals offered must be listed in addition to and following the information required in paragraph (e) and must clearly state the funeral goods and services being offered, the price being charged for those goods and services, and the discounted savings.

(f) Funeral providers must give an itemized written statement, for retention, to each consumer who arranges an at-need funeral or other disposition of human remains at the conclusion of the discussion of the arrangements. The itemized written statement must be signed by the consumer selecting the goods and services as required in section 149A.80. If the statement is provided by a funeral establishment, the statement must be signed by the licensed funeral director ~~or mortician~~ planning the arrangements. If the statement is provided by any other funeral provider, the statement must be signed by an authorized agent of the funeral provider. The statement must list the funeral goods, funeral services, burial site goods, or burial site services selected by that consumer and the prices to be paid for each item, specifically itemized cash advance items (these prices must be given to the extent then known or reasonably ascertainable if the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid), and the total cost of goods and services selected. At the conclusion of an at-need arrangement, the funeral provider is required to give the consumer a copy of the signed itemized written contract that must contain the information required in this paragraph.

(g) Upon receiving actual notice of the death of an individual with whom a funeral provider has entered a preneed funeral agreement, the funeral provider must provide a copy of all preneed funeral agreement documents to the person who controls final disposition of the human remains or to the designee of the person controlling disposition. The person controlling final disposition shall be provided with these documents at the time of the person's first in-person contact with the funeral provider, if the first contact occurs in person at a funeral establishment, crematory, or other place of business of the funeral provider. If the contact occurs by other means or at another location, the documents must be provided within 24 hours of the first contact.

Sec. 19. Minnesota Statutes 2010, section 149A.71, subdivision 4, is amended to read:

Subd. 4. **Casket, alternate container, and cremation container sales; records; required disclosures.** Any funeral provider who sells or offers to sell a casket, alternate container, or cremation container, or cremated remains container to the public must

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11.1 maintain a record of each sale that includes the name of the purchaser, the purchaser's
11.2 mailing address, the name of the decedent, the date of the decedent's death, and the place
11.3 of death. These records shall be open to inspection by the regulatory agency. Any funeral
11.4 provider selling a casket, alternate container, or cremation container to the public, and not
11.5 having charge of the final disposition of the dead human body, shall provide a copy of
11.6 the statutes and rules controlling the removal, preparation, transportation, arrangements
11.7 for disposition, and final disposition of a dead human body. This subdivision does not
11.8 apply to ~~morticians~~, funeral directors, funeral establishments, crematories, or wholesale
11.9 distributors of caskets, alternate containers, or cremation containers.

11.10 Sec. 20. Minnesota Statutes 2010, section 149A.72, subdivision 2, is amended to read:

11.11 Subd. 2. **Embalming provisions; preventive requirements.** To prevent deceptive
11.12 acts or practices, a funeral provider must not represent that a dead human body is required
11.13 to be embalmed for direct cremation, immediate burial, or a closed casket funeral without
11.14 viewing or visitation, when refrigeration is available and when not required by law.
11.15 The funeral provider must also place the following disclosure on the general price list,
11.16 described in section 149A.71, subdivision 2, paragraph (e), in immediate conjunction with
11.17 the price shown for embalming: "Except in certain cases, embalming is not required by
11.18 law. Embalming may be necessary, however, if you select certain funeral arrangements,
11.19 such as a funeral with viewing. If you do not want embalming, you usually have the right
11.20 to choose an arrangement that does not require you to pay for it, such as direct cremation
11.21 or immediate burial or when refrigeration ~~or use of dry ice~~ is available."

11.22 Sec. 21. Minnesota Statutes 2010, section 149A.80, subdivision 2, is amended to read:

11.23 Subd. 2. **Determination of right to control and duty of disposition.** The right to
11.24 control the dead human body, including the location and conditions of final disposition,
11.25 unless other directions have been given by the decedent pursuant to subdivision 1, vests
11.26 in, and the duty of final disposition of the body devolves upon, the following in the order
11.27 of priority listed:

11.28 (1) the person or persons appointed in a dated written instrument signed by the
11.29 decedent. Written instrument includes, but is not limited to, a health care directive
11.30 executed under chapter 145C. If there is a dispute involving more than one written
11.31 instrument, a written instrument that is witnessed or notarized prevails over a written
11.32 instrument that is not witnessed or notarized. Written instrument does not include a
11.33 durable or nondurable power of attorney which terminates on the death of the principal
11.34 pursuant to sections 523.08 and 523.09;

- 12.1 (2) the spouse of the decedent;
- 12.2 (3) the adult child or the majority of the adult children of the decedent, provided
- 12.3 that, in the absence of actual knowledge to the contrary, a funeral director ~~or mortician~~
- 12.4 may rely on instructions given by the child or children who represent that they are the sole
- 12.5 surviving child, or that they constitute a majority of the surviving children;
- 12.6 (4) the surviving parent or parents of the decedent, each having equal authority;
- 12.7 (5) the adult sibling or the majority of the adult siblings of the decedent, provided
- 12.8 that, in the absence of actual knowledge to the contrary, a funeral director ~~or mortician~~
- 12.9 may rely on instructions given by the sibling or siblings who represent that they are the
- 12.10 sole surviving sibling, or that they constitute a majority of the surviving siblings;
- 12.11 (6) the adult grandchild or the majority of the adult grandchildren of the decedent,
- 12.12 provided that, in the absence of actual knowledge to the contrary, a funeral director ~~or~~
- 12.13 ~~mortician~~ may rely on instructions given by a grandchild or grandchildren who represent
- 12.14 that they are the only grandchild or grandchildren reasonably available to control final
- 12.15 disposition of the decedent's remains or represent a majority of grandchildren reasonably
- 12.16 available to control final disposition of the decedent's remains;
- 12.17 (7) the grandparent or the grandparents of the decedent, each having equal authority;
- 12.18 (8) the adult nieces and nephews of the decedent, or a majority of them, provided
- 12.19 that, in the absence of actual knowledge to the contrary, a funeral director ~~or mortician~~
- 12.20 may rely on instructions given by a niece, nephew, or nieces or nephews who represent
- 12.21 that they are the only niece, nephew, or nieces or nephews reasonably available to control
- 12.22 final disposition of the decedent's remains or represent a majority of nieces and nephews
- 12.23 reasonably available to control final disposition of the decedent's remains;
- 12.24 (9) the person or persons who were acting as the guardians of the person of the
- 12.25 decedent with authority to make health care decisions for the decedent at the time of death;
- 12.26 (10) an adult who exhibited special care and concern for the decedent;
- 12.27 (11) the person or persons respectively in the next degree of kinship in the order
- 12.28 named by law to inherit the estate of the decedent; and
- 12.29 (12) the appropriate public or court authority, as required by law.

12.30 For purposes of this subdivision, the appropriate public or court authority includes

12.31 the county board of the county in which the death occurred if the person dies without

12.32 apparent financial means to provide for final disposition or the district court in the county

12.33 in which the death occurred.

12.34 Sec. 22. Minnesota Statutes 2010, section 149A.80, subdivision 5, is amended to read:

Subd. 5. **Disputes.** When a dispute exists regarding the right to control or duty of disposition, the parties in dispute ~~or the mortician~~ or funeral director may file a petition in the district court in the county of residence of the decedent requesting that the court make a determination in the matter. Should the right to control and duty of disposition devolve to more than one person with the same degree of relationship to the decedent and those persons cannot, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making its determination:

(1) the reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;

(2) the degree of the personal relationship between the decedent and each of the persons in the same degree of relationship to the decedent;

(3) the expressed wishes and directions of the decedent and the extent to which the decedent has provided resources for the purpose of carrying out the wishes or directions; and

(4) the degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.

Sec. 23. Minnesota Statutes 2010, section 149A.80, subdivision 6, is amended to read:

Subd. 6. **Control by funeral director ~~or mortician~~.** A funeral director ~~or mortician~~ shall have complete authority to control the final disposition and to proceed under this chapter to recover reasonable charges for the disposition and final disposition when both of the following apply:

(1) the funeral director ~~or mortician~~ has actual knowledge that none of the persons described in subdivision 2, clauses (1) to (6), exist or that none of the persons so described can be found after reasonable inquiry or contacted by reasonable means; and

(2) the appropriate public or court authority fails to assume responsibility for disposition of the remains within 36 hours after having been given written notice of the facts. Written notice may be delivered by hand, United States mail, facsimile transmission, or telegraph.

Sec. 24. Minnesota Statutes 2010, section 149A.80, subdivision 7, is amended to read:

Subd. 7. **Immunity.** A funeral director ~~or mortician~~ shall not be subject to criminal prosecution or civil liability for carrying out the otherwise lawful instructions of the decedent or the person or persons whom the funeral director ~~or mortician~~ reasonably believes is entitled to control the final disposition.

Sec. 25. Minnesota Statutes 2010, section 149A.90, is amended to read:

149A.90 DEATH; REGISTRATION AND REMOVAL FROM PLACE OF DEATH.

Subdivision 1. **Death record.** (a) Except as provided in this section, a death record must be completed and filed for every known death by the ~~mortician~~, funeral director, or ~~other person lawfully in charge of the final disposition of the body.~~

(b) If the body is that of an individual whose identity is unknown, the person in charge of the final disposition of the body must notify the commissioner for purposes of compliance with section 144.05, subdivision 4.

Subd. 2. **Removal from place of death.** No person subject to regulation under this chapter shall remove or cause to be removed any dead human body from the place of death without being licensed by the commissioner. Every dead human body shall be removed from the place of death by a licensed ~~mortician~~ or funeral director, except as provided in section 149A.01, subdivision 3.

Subd. 3. **Referrals to coroner or medical examiner.** Referrals to the coroner or medical examiner are outlined in section 390.11.

Subd. 4. **Certificate of ~~removal~~ custody transfer.** ~~No dead human body shall be removed from the place of death by a mortician or funeral director or by a noncompensated person with the right to control the dead human body without the completion of a certificate of removal and, where possible, presentation of a copy of that certificate to the person or a representative of the legal entity with physical or legal custody of the body at the death site. A certificate of custody transfer shall be completed each time the custody of a dead human body is transferred from one person to another from the time of death until the time at which final disposition is complete. The certificate of ~~removal~~ custody transfer shall be in the format provided by the commissioner that contains, at least, the following information:~~

(1) the name of the deceased, if known;

(2) the date and time of removal;

(3) a brief listing of the type and condition of any personal property removed with the body;

(4) the location to which the body is being taken;

(5) the name, business address, and license number of the individual making the removal; and

(6) the signatures of the individual making the removal and, where possible, the individual or representative of the legal entity with physical or legal custody of the body at the death site.

Subd. 5. **Retention of certificate of ~~removal~~ custody transfer.** A copy of the certificate of ~~removal~~ custody transfer shall be given, where possible, to the person or representative of the legal entity having physical or legal custody of the body ~~at the death site. The original~~ A copy of the certificate of ~~removal~~ custody transfer shall be retained by the individual making the ~~removal~~ custody transfer and shall be kept on file, ~~at the funeral establishment to which the body was taken,~~ for a period of three calendar years following the date of the ~~removal~~ custody transfer. Following this period, and subject to any other laws requiring retention of records, the ~~funeral establishment~~ person involved in the custody transfer may then place the records in storage or reduce them to microfilm, microfiche, laser disc, or any other method that can produce an accurate reproduction of the original record, for retention for a period of ten calendar years from the date of the ~~removal~~ custody transfer of the body. At the end of this period and subject to any other laws requiring retention of records, the ~~funeral establishment~~ person may destroy the records by shredding, incineration, or any other manner that protects the privacy of the individuals identified in the records.

Subd. 6. **Removal procedure.** Every individual removing a dead human body from the place of death shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any communicable disease from the body. Before removal, the body shall be wrapped in a sheet or pouch that is impervious to liquids, covered in such a manner that the body cannot be viewed, and placed on a regulation ambulance cot or on an aircraft ambulance stretcher. A person with the right to control the dead human body or that person's noncompensated designee may use any appropriate cot, stretcher, or tray rigid enough to support a dead human body. Any dead human body measuring 36 inches or less in length may be removed after having been properly wrapped, covered, and encased, but does not need to be placed on an ambulance cot, or aircraft ambulance stretcher, ~~or rigid tray~~.

Subd. 7. **Conveyances permitted for removal.** A dead human body may be transported from the place of death by any vehicle that meets the following standards:

- (1) promotes respect for and preserves the dignity of the dead human body;
- (2) shields the body from being viewed from outside of the conveyance;
- (3) has ample enclosed area to accommodate a cot, or stretcher, ~~or rigid tray~~ in a horizontal position;
- (4) is so designed to permit loading and unloading of the body without excessive tilting of the cot, or stretcher, ~~or rigid tray~~; and
- (5) if used for the transportation of more than one dead human body at one time, the vehicle must be designed so that a body or container does not rest directly on top

of another body or container and that each body or container is secured to prevent the body or container from excessive movement within the conveyance. A dead human body measuring 36 inches or less in length may be transported from the place of death by passenger automobile. For purposes of this subdivision, a passenger automobile is a vehicle designed and used for carrying not more than ten persons, but excludes motorcycles and motor scooters.

Subd. 8. **Proper holding facility required.** The funeral establishment to which a dead human body is taken shall have an appropriate holding facility for storing the body while awaiting final disposition. The holding facility must be secure from access by anyone except the authorized personnel of the funeral establishment, preserve the dignity of the remains, and protect the health and safety of the funeral establishment personnel.

Sec. 26. Minnesota Statutes 2010, section 149A.91, subdivision 2, is amended to read:

Subd. 2. **Preparation procedures; access to preparation room.** The preparation of a dead human body for final disposition shall be performed in privacy. No person shall be permitted to be present in the preparation room while a dead human body is being embalmed, washed, or otherwise prepared for final disposition, except:

- (1) licensed ~~morticians~~ funeral directors;
- (2) registered interns or students as described in subdivision 6;
- (3) public officials or representatives in the discharge of their official duties; and
- (4) licensed medical personnel.

Licensed funeral homes may work with family and friends of the deceased to allow for their participation in washing and dressing of the body in a private location other than the preparation room of the funeral home.

Sec. 27. Minnesota Statutes 2010, section 149A.91, subdivision 3, is amended to read:

Subd. 3. **Embalming or refrigeration required.** (a) A dead human body must be embalmed by a licensed ~~mortician~~ funeral director or registered intern or practicum student or clinical student; ~~or refrigerated, or packed in dry ice~~ in the following circumstances:

- (1) if the body will be transported by public transportation, pursuant to section 149A.93, subdivision 7;
- (2) if final disposition will not be accomplished within 72 hours after death or release of the body by a competent authority with jurisdiction over the body or the body will be lawfully stored for final disposition in the future, except as provided in section 149A.94, subdivision 1;
- (3) if the body will be publicly viewed subject to paragraph (b); or

17.1 (4) if so ordered by the commissioner of health for the control of infectious disease
17.2 and the protection of the public health.

17.3 (b) For purposes of this subdivision, "publicly viewed" means reviewal of a dead
17.4 human body by anyone other than those mentioned in section 149A.80, subdivision 2, and
17.5 their minor children. ~~Dry ice may only be used when the dead human body is publicly~~
17.6 ~~viewed within private property.~~

17.7 (c) A body may not be kept in refrigeration for a period that exceeds six calendar
17.8 days, ~~or packed in dry ice for a period that exceeds four calendar days,~~ from the time and
17.9 release of the body from the place of death or from the time of release from the coroner or
17.10 medical examiner.

17.11 Sec. 28. Minnesota Statutes 2010, section 149A.91, subdivision 6, is amended to read:

17.12 Subd. 6. **Mortician Funeral director required.** Embalming of a dead human body
17.13 shall be performed only by an individual holding a license to practice mortuary science in
17.14 Minnesota, a registered intern pursuant to section 149A.20, subdivision 6, or a student
17.15 registered for a practicum or clinical through an accredited college or university or a
17.16 college of funeral service education accredited by the American Board of Funeral Service
17.17 Education. An individual who holds a funeral director only license issued pursuant to
17.18 section 149A.40, subdivision 2, is prohibited from engaging in the embalming of a dead
17.19 human body.

17.20 Sec. 29. Minnesota Statutes 2010, section 149A.93, subdivision 1, is amended to read:

17.21 Subdivision 1. **Permits required.** After removal from the place of death to any
17.22 location where the body is held awaiting final disposition, further transportation of the
17.23 body shall require a certificate of ~~removal~~ custody transfer. The certificate of ~~removal~~
17.24 custody transfer shall contain the information required in the format as furnished by
17.25 the commissioner.

17.26 Sec. 30. Minnesota Statutes 2010, section 149A.93, subdivision 2, is amended to read:

17.27 Subd. 2. **Certificate of removal custody transfer.** A certificate of ~~removal~~ custody
17.28 transfer is required when:

- 17.29 (1) legal and physical custody of the body is transferred;
17.30 (2) a body is transported by public transportation; or
17.31 (3) a body is removed from the state.

17.32 Sec. 31. Minnesota Statutes 2010, section 149A.93, subdivision 6, is amended to read:

Subd. 6. **Conveyances permitted for transportation.** A dead human body may be transported by means of private vehicle or private aircraft, provided that the body must be encased in an appropriate container, that meets the following standards:

- (1) promotes respect for and preserves the dignity of the dead human body;
- (2) shields the body from being viewed from outside of the conveyance;
- (3) has ample enclosed area to accommodate a cot, stretcher, ~~rigid tray~~, casket, alternative container, or cremation container in a horizontal position;
- (4) is designed to permit loading and unloading of the body without excessive tilting of the cot, stretcher, ~~rigid tray~~, casket, alternative container, or cremation container; and
- (5) if used for the transportation of more than one dead human body at one time, the vehicle must be designed so that a body or container does not rest directly on top of another body or container and that each body or container is secured to prevent the body or container from excessive movement within the conveyance.

A vehicle that is a dignified conveyance and was specified for use by the deceased or by the family of the deceased may be used to transport the body to the place of final disposition.

Sec. 32. Minnesota Statutes 2010, section 149A.93, subdivision 7, is amended to read:

Subd. 7. **Transportation procedures.** When a dead human body is transported by public transportation, it must be properly embalmed and enclosed in a casket or alternative container and an appropriate outside shipping container. All applicable regulations and policies of the carrier must be followed. When transportation is by any private vehicle or aircraft, the outside shipping container may be omitted or the casket or alternative container and the outside container may both be omitted and, in such case, the body shall be wrapped in a sheet that is impervious to liquids, covered in such a manner that the body cannot be viewed, encased in a secure pouch, and placed on a cot, or stretcher, ~~or rigid tray~~.

Sec. 33. Minnesota Statutes 2010, section 149A.94, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Every dead human body lying within the state, except unclaimed bodies delivered for dissection by the medical examiner, those delivered for anatomical study pursuant to section 149A.81, subdivision 2, or lawfully carried through the state for the purpose of disposition elsewhere; and the remains of any dead human body after dissection or anatomical study, shall be decently buried, entombed in a public or private cemetery, or cremated, within a reasonable time after death. Where final disposition of a body will not be accomplished within 72 hours following death or release of the body by a competent authority with jurisdiction over the body, the body

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19.1 must be properly embalmed, ~~or refrigerated, or packed with dry ice.~~ A body may not be
19.2 kept in refrigeration for a period exceeding six calendar days, ~~or packed in dry ice for a~~
19.3 ~~period that exceeds four calendar days,~~ from the time of death or release of the body from
19.4 the coroner or medical examiner.

19.5 Sec. 34. Minnesota Statutes 2010, section 149A.94, subdivision 3, is amended to read:

19.6 Subd. 3. **Permit required.** No dead human body shall be buried, entombed, or
19.7 cremated without a disposition permit. The disposition permit must be filed with the
19.8 person in charge of the place of final disposition. Where a dead human body will be
19.9 transported out of this state for final disposition, the body must be accompanied by a
19.10 certificate of ~~removal~~ custody transfer.

19.11 Sec. 35. Minnesota Statutes 2010, section 149A.95, subdivision 6, is amended to read:

19.12 Subd. 6. **Acceptance of delivery of body.** No dead human body shall be accepted
19.13 for final disposition by cremation unless encased in an appropriate cremation container or
19.14 wrapped in an impermeable sheet or pouch and placed on a tray rigid enough for handling
19.15 with ease, accompanied by a disposition permit issued pursuant to section 149A.93,
19.16 subdivision 3, including a photocopy of the completed death record or a signed release
19.17 authorizing cremation of the body received from the coroner or medical examiner, and
19.18 accompanied by a cremation authorization that complies with subdivision 4. A crematory
19.19 shall refuse to accept delivery of a cremation container where there is:

- 19.20 (1) evidence of leakage of fluids from the cremation container;
19.21 (2) a known dispute concerning cremation of the body delivered;
19.22 (3) a reasonable basis for questioning any of the representations made on the written
19.23 authorization to cremate; ~~or~~
19.24 (4) any other lawful reason; or
19.25 (5) no proper accompanying certificate of custody transfer.

19.26 Sec. 36. Minnesota Statutes 2010, section 149A.95, subdivision 7, is amended to read:

19.27 Subd. 7. **Handling of cremation containers for dead human bodies.** All
19.28 crematory employees handling cremation containers for dead human bodies shall use
19.29 universal precautions and otherwise exercise all reasonable precautions to minimize the
19.30 risk of transmitting any communicable disease from the body. No dead human body shall
19.31 be removed from the container in which it is delivered to the crematory without express
19.32 written authorization of the person or persons with legal right to control the disposition
19.33 and only by a licensed ~~mortician~~ funeral director. If, after accepting delivery of a body for

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20.1 cremation, it is discovered that the body contains an implanted mechanical or radioactive
20.2 device, that device must be removed from the body by a licensed ~~mortician~~ funeral
20.3 director or physician prior to cremation.

20.4 Sec. 37. Minnesota Statutes 2010, section 149A.95, subdivision 20, is amended to read:

20.5 Subd. 20. **Required records.** Every crematory shall create and maintain on its
20.6 premises or other business location in Minnesota an accurate record of every cremation
20.7 provided. The record shall include all of the following information for each cremation:

20.8 (1) the name of the person or funeral establishment delivering the body for cremation;

20.9 (2) the name of the deceased and the identification number assigned to the body;

20.10 (3) the date of acceptance of delivery;

20.11 (4) the names of the cremation chamber and mechanical processor operator;

20.12 (5) the time and date that the body was placed in and removed from the cremation
20.13 chamber;

20.14 (6) the time and date that processing and inurnment of the cremated remains was
20.15 completed;

20.16 (7) the time, date, and manner of release of the cremated remains;

20.17 (8) the name and address of the person who signed the authorization to cremate;

20.18 (9) all supporting documentation, including any transit or disposition permits, a
20.19 photocopy of the death record, certificates of custody transfer or final disposition, and
20.20 the authorization to cremate; and

20.21 (10) the type of cremation container.

20.22 Sec. 38. Minnesota Statutes 2010, section 149A.96, subdivision 1, is amended to read:

20.23 Subdivision 1. **Written authorization.** Except as provided in this section, no dead
20.24 human body or human remains shall be disinterred and reinterred without the written
20.25 authorization of the person or persons legally entitled to control the body or remains and
20.26 a disinterment-reinterment permit properly issued by the commissioner or a licensed
20.27 ~~mortician~~ funeral director. Permits shall contain the information required on the permit
20.28 form as furnished by the commissioner.

20.29 Sec. 39. Minnesota Statutes 2010, section 149A.96, subdivision 4, is amended to read:

20.30 Subd. 4. **Disinterment opposed.** If the disinterment is opposed, no
20.31 disinterment-reinterment permit shall be issued until the state registrar or licensed
20.32 ~~mortician~~ funeral director receives a certified copy of a court order that specifically orders
20.33 the disinterment and reinterment.

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21.1 Sec. 40. Minnesota Statutes 2010, section 149A.96, subdivision 7, is amended to read:

21.2 Subd. 7. **Filing of documentation of disinterment and reinterment.** The
21.3 cemetery where the body or remains were originally interred shall retain a copy of the
21.4 disinterment-reinterment permit, the authorization to disinter, and, if applicable, the court
21.5 order showing reasonable cause to disinter. Until the body or remains are reinterred
21.6 the original permit and other documentation shall be in the possession of the person
21.7 in physical or legal custody of the body or remains, or attached to the transportation
21.8 container which holds the body or remains. At the time of reinterment, the permit and
21.9 other documentation shall be filed according to the laws, rules, or regulations of the state
21.10 or country where reinterment occurs. If the death occurred in Minnesota, the state registrar
21.11 or a licensed ~~mortician~~ funeral director shall inform the person requesting the disinterment
21.12 and reinterment of the right to request an amendment to the death record according to
21.13 Minnesota Rules, chapter 4601.

21.14 Sec. 41. **[306.285] PUBLIC CEMETERIES; CERTIFICATE OF FINAL**
21.15 **DISPOSITION.**

21.16 Within five days of burial, the cemetery performing the final disposition shall
21.17 electronically file with the state registrar a certificate of final disposition which shall
21.18 include the following information:

- 21.19 (1) the name of the deceased and the identification number assigned to the burial plot;
21.20 (2) the date, time, and cemetery where the burial or entombment occurred; or
21.21 (3) the time, date, manner, and location of any scattering.

21.22 The state registrar shall make this information part of the decedent's final death
21.23 certificate.

21.24 Sec. 42. **REPEALER.**

21.25 Minnesota Statutes 2010, section 149A.02, subdivision 29, is repealed.