

A bill for an act

relating to mortuary science; modifying provisions related to viewing, transporting, and removal of a dead human body; amending Minnesota Statutes 2008, sections 149A.01, subdivision 3; 149A.71, subdivision 2; 149A.72, subdivision 2; 149A.90, subdivisions 4, 6, 7; 149A.91, subdivisions 2, 3; 149A.93, subdivisions 6, 7; 149A.94, subdivision 1; Minnesota Statutes 2009 Supplement, section 149A.80, subdivision 2.

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

Section 1. Minnesota Statutes 2008, 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, and casketing 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) 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) 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) An unlicensed person may arrange for and direct or supervise a memorial service ~~after final disposition of the dead human body has taken place 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, ~~however an unlicensed person may arrange for and direct or supervise a memorial service before final disposition of the dead human body has taken place 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. 2. Minnesota Statutes 2008, section 149A.71, subdivision 2, is amended to read:

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

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

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

- (1) caskets;
- (2) alternative containers;
- (3) outer burial containers;
- (4) cremation containers;
- (5) cremated remains containers;

3.1 (6) markers; and

3.2 (7) headstones.

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

3.14 (e) Funeral providers must give a printed price list, for retention, to persons who
3.15 inquire in person about the funeral goods, funeral services, burial site goods, or burial site
3.16 services or prices offered by the funeral provider. The funeral provider must give the list
3.17 upon beginning discussion of either the prices of or the overall type of funeral service or
3.18 disposition or specific funeral goods, funeral services, burial site goods, or burial site
3.19 services offered by the provider. This requirement applies whether the discussion takes
3.20 place in the funeral establishment or elsewhere. However, when the deceased is removed
3.21 for transportation to the funeral establishment, an in-person request for authorization to
3.22 embalm does not, by itself, trigger the requirement to offer the general price list. If the
3.23 provider, in making an in-person request for authorization to embalm, discloses that
3.24 embalming is not required by law except in certain special cases, the provider is not
3.25 required to offer the general price list. Any other discussion during that time about prices
3.26 or the selection of funeral goods, funeral services, burial site goods, or burial site services
3.27 triggers the requirement to give the consumer a general price list. The general price list
3.28 must contain the following information:

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

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

3.32 (3) the effective date for the price list;

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

3.35 (i) forwarding of remains to another funeral establishment, together with a list of
3.36 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. 3. Minnesota Statutes 2008, section 149A.72, subdivision 2, is amended to read:

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 149A.80, subdivision 2, is amended to read:

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

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

(2) the spouse of the decedent;

(3) the adult child or the majority of the adult children of the decedent, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child or children who represent that they are the sole surviving child, or that they constitute a majority of the surviving children;

(4) the surviving parent or parents of the decedent, each having equal authority;

(5) the adult sibling or the majority of the adult siblings of the decedent, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling or siblings who represent that they are the sole surviving sibling, or that they constitute a majority of the surviving siblings;

(6) the adult grandchild or the majority of the adult grandchildren of the decedent, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild or grandchildren who represent that they are the only grandchild or grandchildren reasonably available to control final disposition of the decedent's remains or represent a majority of grandchildren reasonably available to control final disposition of the decedent's remains;

(7) the grandparent or the grandparents of the decedent, each having equal authority;

(8) the adult nieces and nephews of the decedent, or a majority of them, provided that, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece, nephew, or nieces or nephews who represent that they are the only niece, nephew, or nieces or nephews reasonably available to control final disposition of the decedent's remains or represent a majority of nieces and nephews reasonably available to control final disposition of the decedent's remains;

(9) the person or persons who were acting as the guardians of the person of the decedent with authority to make health care decisions for the decedent at the time of death;

(10) an adult who exhibited special care and concern for the decedent;

(11) the person or persons respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; and

(12) the appropriate public or court authority, as required by law.

For purposes of this subdivision, the appropriate public or court authority includes the county board of the county in which the death occurred if the person dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.

Sec. 5. Minnesota Statutes 2008, section 149A.90, subdivision 4, is amended to read:

Subd. 4. **Certificate of removal.** 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. The certificate of removal 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.

Sec. 6. Minnesota Statutes 2008, section 149A.90, subdivision 6, is amended to read:

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.

H.F. No. 3151, as introduced - 86th Legislative Session (2009-2010) [10-5665]

Sec. 7. Minnesota Statutes 2008, section 149A.90, subdivision 7, is amended to read:

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 ~~an ambulance cot or aircraft ambulance stretcher~~ a cot, 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; ~~and~~.
- ~~(6) is designed so that the driver and the dead human body are in the same cab.~~

Sec. 8. Minnesota Statutes 2008, 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;
- (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; and
- (5) family and friends of the deceased, if the licensed funeral establishment where the preparation takes place has established procedures and regulations for permitting family and friends of the deceased to participate in washing and dressing the body. A licensed funeral establishment is not required to permit family and friends of the deceased to be present in the preparation room.

Sec. 9. Minnesota Statutes 2008, section 149A.91, subdivision 3, is amended to read:

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

(1) if the body will be transported by public transportation, according to applicable regulations;

(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; or

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

For purposes of this subdivision, "publicly viewed" means reviewal of a dead human body by anyone other than those, including minors, mentioned in section 149A.80, subdivision 2, ~~and minor children. Refrigeration~~ Dry ice may be used in lieu of embalming ~~when required in clause (2) for a public reviewal.~~ A body may not be kept in refrigeration or packed with dry ice for a period that exceeds six calendar days from the time and release of the body from the place of death or from the time of release from the coroner or medical examiner.

Sec. 10. Minnesota Statutes 2008, 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 public transportation provided that the body must be ~~properly embalmed and~~ encased in an appropriate container, or by any private vehicle or aircraft 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 ~~regulation ambulance cot, aircraft ambulance~~ 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.

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

11.4 Sec. 11. Minnesota Statutes 2008, section 149A.93, subdivision 7, is amended to read:

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

11.14 Sec. 12. Minnesota Statutes 2008, section 149A.94, subdivision 1, is amended to read:

11.15 Subdivision 1. **Generally.** Every dead human body lying within the state, except
11.16 unclaimed bodies delivered for dissection by the medical examiner, those delivered for
11.17 anatomical study pursuant to section 149A.81, subdivision 2, or lawfully carried through
11.18 the state for the purpose of disposition elsewhere; and the remains of any dead human
11.19 body after dissection or anatomical study, shall be decently buried, entombed in a public
11.20 or private cemetery, or cremated, within a reasonable time after death. Where final
11.21 disposition of a body will not be accomplished within 72 hours following death or release
11.22 of the body by a competent authority with jurisdiction over the body, the body must be
11.23 properly embalmed ~~or,~~ refrigerated, or packed with dry ice. A body may not be kept in
11.24 refrigeration or packed with dry ice for a period exceeding six calendar days from the time
11.25 of death or release of the body from the coroner or medical examiner.