

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 2611

(SENATE AUTHORS: UTKE, Rarick, Rasmusson, Hoffman and Drazkowski)

DATE	D-PG	OFFICIAL STATUS
03/06/2023	1356	Introduction and first reading Referred to Health and Human Services
02/19/2024	11659	Authors added Rarick; Rasmusson
02/22/2024	11689a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
	11721	Author added Hoffman
03/04/2024	11919	Author added Drazkowski
03/21/2024	12514	Comm report: To pass and re-referred to Health and Human Services

1.1

A bill for an act

1.2

relating to health; authorizing transfer care specialists to remove dead human

1.3

bodies from the place of death; providing for registration of transfer care specialists

1.4

by the commissioner of health; adding a mortuary science fee; amending Minnesota

1.5

Statutes 2022, sections 149A.01, subdivision 3; 149A.02, subdivision 13a, by

1.6

adding a subdivision; 149A.03; 149A.09; 149A.11; 149A.60; 149A.61, subdivisions

1.7

4, 5; 149A.62; 149A.63; 149A.65, subdivision 2; 149A.70, subdivisions 3, 4, 5,

1.8

7; 149A.90, subdivisions 2, 4, 5; proposing coding for new law in Minnesota

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Statutes, chapter 149A.

1.10

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

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Section 1. Minnesota Statutes 2022, section 149A.01, subdivision 3, is amended to read:

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Subd. 3. **Exceptions to licensure.** (a) Except as otherwise provided in this chapter,

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nothing in this chapter shall in any way interfere with the duties of:

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(1) an anatomical bequest program located within an accredited school of medicine or

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an accredited college of mortuary science;

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(2) a person engaged in the performance of duties prescribed by law relating to the

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conditions under which unclaimed dead human bodies are held subject to anatomical study;

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

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duties;

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

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

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(b) This chapter does not apply to or interfere with the recognized customs or rites of

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any culture or recognized religion in the ceremonial washing, dressing, 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) 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; or transfer care specialists registered pursuant to section 149A.47 are not required to be licensed, provided that the persons ~~or~~ students, or transfer care specialists 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 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. 2. Minnesota Statutes 2022, 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. For the purpose of a transfer care specialist, direct supervision means that the supervisor is available by being physically present or by telephone to advise and correct, as needed, the performance of the transfer care specialist. The supervising mortician ~~supervisor~~ is accountable for the actions of the clinical student, practicum student, or intern throughout the course of the training. The supervising mortician is accountable for any violations of law or rule, in the performance of their duties, by the clinical student, practicum student, ~~or intern,~~ or transfer care specialist.

Sec. 3. Minnesota Statutes 2022, section 149A.02, is amended by adding a subdivision to read:

Subd. 37d. Transfer care specialist. "Transfer care specialist" means an individual who is registered with the commissioner in accordance with section 149A.47 and is authorized to perform the removal of a dead human body from the place of death under the direct supervision of a licensed mortician.

Sec. 4. Minnesota Statutes 2022, section 149A.03, is amended to read:

149A.03 DUTIES OF COMMISSIONER.

The commissioner shall:

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

(i) removal, preparation, transportation, arrangements for disposition, and final disposition of dead human bodies;

(ii) licensure, registration, and professional conduct of funeral directors, morticians, interns, practicum students, ~~and~~ clinical students, and transfer care specialists;

(iii) licensing and operation of a funeral establishment;

(iv) licensing and operation of an alkaline hydrolysis facility; and

(v) licensing and operation of a crematory;

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

(3) administer examinations and issue licenses, registrations, and permits to qualified persons and other legal entities;

(4) maintain a record of the name and location of all current licensees ~~and~~, interns, and transfer care specialists;

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

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

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

(8) maintain a schedule of application, examination, permit, registration, and licensure fees, initial and renewal, sufficient to cover all necessary operating expenses;

(9) educate the public about the existence and content of the laws and rules for mortuary science licensing and the removal, preparation, transportation, arrangements for disposition,

and final disposition of dead human bodies to enable consumers to file complaints against licensees and others who may have violated those laws or rules;

(10) evaluate the laws, rules, and procedures regulating the practice of mortuary science in order to refine the standards for licensing and to improve the regulatory and enforcement methods used; and

(11) initiate proceedings to address and remedy deficiencies and inconsistencies in the laws, rules, or procedures governing the practice of mortuary science and the removal, preparation, transportation, arrangements for disposition, and final disposition of dead human bodies.

Sec. 5. Minnesota Statutes 2022, section 149A.09, is amended to read:

149A.09 DENIAL; REFUSAL TO REISSUE; REVOCATION; SUSPENSION; LIMITATION OF LICENSE, REGISTRATION, OR PERMIT.

Subdivision 1. **Denial; refusal to renew; revocation; and suspension.** The regulatory agency may deny, refuse to renew, revoke, or suspend any license, registration, or permit applied for or issued pursuant to this chapter when the person subject to regulation under this chapter:

(1) does not meet or fails to maintain the minimum qualification for holding a license, registration, or permit under this chapter;

(2) submits false or misleading material information to the regulatory agency in connection with a license, registration, or permit issued by the regulatory agency or the application for a license, registration, or permit;

(3) violates any law, rule, order, stipulation agreement, settlement, compliance agreement, license, registration, or permit that regulates the removal, preparation, transportation, arrangements for disposition, or final disposition of dead human bodies in Minnesota or any other state in the United States;

(4) is convicted of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea in any court in Minnesota or any other jurisdiction in the United States. "Conviction," as used in this subdivision, includes a conviction for an offense which, if committed in this state, would be deemed a felony or gross misdemeanor without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned, but the adjudication of guilt is either withheld or not entered;

(5) is convicted of a crime, including a finding or verdict of guilt, an admission of guilt, or a no contest plea in any court in Minnesota or any other jurisdiction in the United States that the regulatory agency determines is reasonably related to the removal, preparation, transportation, arrangements for disposition or final disposition of dead human bodies, or the practice of mortuary science;

(6) is adjudicated as mentally incompetent, mentally ill, developmentally disabled, or mentally ill and dangerous to the public;

(7) has a conservator or guardian appointed;

(8) fails to comply with an order issued by the regulatory agency or fails to pay an administrative penalty imposed by the regulatory agency;

(9) owes uncontested delinquent taxes in the amount of \$500 or more to the Minnesota Department of Revenue, or any other governmental agency authorized to collect taxes anywhere in the United States;

(10) is in arrears on any court ordered family or child support obligations; or

(11) engages in any conduct that, in the determination of the regulatory agency, is unprofessional as prescribed in section 149A.70, subdivision 7, or renders the person unfit to practice mortuary science or to operate a funeral establishment or crematory.

Subd. 2. **Hearings related to refusal to renew, suspension, or revocation of license, registration, or permit.** If the regulatory agency proposes to deny renewal, suspend, or revoke a license, registration, or permit issued under this chapter, the regulatory agency must first notify, in writing, the person against whom the action is proposed to be taken and provide an opportunity to request a hearing under the contested case provisions of sections 14.57 to 14.62. If the subject of the proposed action does not request a hearing by notifying the regulatory agency, by mail, within 20 calendar days after the receipt of the notice of proposed action, the regulatory agency may proceed with the action without a hearing and the action will be the final order of the regulatory agency.

Subd. 3. **Review of final order.** A judicial review of the final order issued by the regulatory agency may be requested in the manner prescribed in sections 14.63 to 14.69. Failure to request a hearing pursuant to subdivision 2 shall constitute a waiver of the right to further agency or judicial review of the final order.

Subd. 4. **Limitations or qualifications placed on license, registration, or permit.** The regulatory agency may, where the facts support such action, place reasonable limitations

or qualifications on the right to practice mortuary science ~~or~~, to operate a funeral establishment or crematory, or to perform activities or actions permitted under this chapter.

Subd. 5. **Restoring license, registration, or permit.** The regulatory agency may, where there is sufficient reason, restore a license, registration, or permit that has been revoked, reduce a period of suspension, or remove limitations or qualifications.

Sec. 6. Minnesota Statutes 2022, section 149A.11, is amended to read:

149A.11 PUBLICATION OF DISCIPLINARY ACTIONS.

The regulatory agencies shall report all disciplinary measures or actions taken to the commissioner. At least annually, the commissioner shall publish and make available to the public a description of all disciplinary measures or actions taken by the regulatory agencies. The publication shall include, for each disciplinary measure or action taken, the name and business address of the licensee ~~or~~, intern, or transfer care specialist; the nature of the misconduct; ~~and~~ and the measure or action taken by the regulatory agency.

Sec. 7. **[149A.47] TRANSFER CARE SPECIALIST.**

Subdivision 1. **General.** A transfer care specialist may remove a dead human body from the place of death under the direct supervision of a licensed mortician if the transfer care specialist is registered with the commissioner in accordance with this section. A transfer care specialist is not licensed to engage in the practice of mortuary science and shall not engage in the practice of mortuary science except as provided in this section. A transfer care specialist must be an employee of a licensed funeral establishment.

Subd. 2. **Registration.** (a) To be eligible for registration as a transfer care specialist, an applicant must submit to the commissioner:

(1) a completed application on a form provided by the commissioner that includes at a minimum:

(i) the applicant's name, home address and telephone number, business name, business address and telephone number, and email address; and

(ii) the name, license number, business name, and business address and telephone number of the supervising licensed mortician;

(2) proof of completion of a training program that meets the requirements specified in subdivision 4; and

(3) the appropriate fee specified in section 149A.65.

7.1 (b) All transfer care specialist registrations are valid for one calendar year, beginning
7.2 on January 1 and ending on December 31 regardless of the date of issuance. Fees shall not
7.3 be prorated.

7.4 Subd. 3. **Duties.** (a) A transfer care specialist registered under this section is authorized
7.5 to perform the removal of a dead human body from the place of death in accordance with
7.6 this chapter to a licensed funeral establishment. A transfer care specialist must comply with
7.7 the universal precaution requirements in section 149A.91, subdivision 1, when handling a
7.8 dead human body.

7.9 (b) A transfer care specialist must work under the direct supervision of a licensed
7.10 mortician. The supervising mortician is responsible for the work performed by the transfer
7.11 care specialist. A licensed mortician may supervise up to four transfer care specialists at
7.12 any one time.

7.13 Subd. 4. **Training program and continuing education.** (a) Each transfer care specialist
7.14 must complete a training program prior to initial registration. A training program must be
7.15 at least seven hours long and must cover, at a minimum, the following:

7.16 (1) ethical care and transportation procedures for a deceased person;

7.17 (2) health and safety concerns to the public and the individual performing the transfer
7.18 of the deceased person, and the use of universal precautions and other reasonable precautions
7.19 to minimize the risk for transmitting communicable diseases; and

7.20 (3) all relevant state and federal laws and regulations related to the transfer and
7.21 transportation of deceased persons.

7.22 (b) A transfer care specialist must complete three hours of continuing education annually
7.23 on content described in paragraph (a), clauses (1) to (3), and submit evidence of completion
7.24 with the individual's registration renewal.

7.25 Subd. 5. **Renewal.** (a) A registration issued under this section expires on December 31
7.26 of the calendar year in which the registration was issued and must be renewed to remain
7.27 valid.

7.28 (b) To renew a registration, a transfer care specialist must submit to the commissioner
7.29 a completed renewal application as provided by the commissioner and the appropriate fee
7.30 specified in section 149A.65. The renewal application must include proof of completion of
7.31 the continuing education requirements in subdivision 4.

Sec. 8. Minnesota Statutes 2022, section 149A.60, is amended to read:

149A.60 PROHIBITED CONDUCT.

The regulatory agency may impose disciplinary measures or take disciplinary action against a person whose conduct is subject to regulation under this chapter for failure to comply with any provision of this chapter or laws, rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, and permits adopted, or issued for the regulation of the removal, preparation, transportation, arrangements for disposition or final disposition of dead human bodies, or for the regulation of the practice of mortuary science.

Sec. 9. Minnesota Statutes 2022, section 149A.61, subdivision 4, is amended to read:

Subd. 4. **Licensees ~~and~~, interns, and transfer care specialists.** A licensee ~~or~~, intern, or transfer care specialist regulated under this chapter may report to the commissioner any conduct that the licensee ~~or~~, intern, or transfer care specialist has personal knowledge of, and reasonably believes constitutes grounds for, disciplinary action under this chapter.

Sec. 10. Minnesota Statutes 2022, section 149A.61, subdivision 5, is amended to read:

Subd. 5. **Courts.** The court administrator of district court or any court of competent jurisdiction shall report to the commissioner any judgment or other determination of the court that adjudges or includes a finding that a licensee ~~or~~, intern, or transfer care specialist is a person who is mentally ill, mentally incompetent, guilty of a felony or gross misdemeanor, guilty of violations of federal or state narcotics laws or controlled substances acts; appoints a guardian or conservator for the licensee ~~or~~, intern, or transfer care specialist; or commits a licensee ~~or~~, intern, or transfer care specialist.

Sec. 11. Minnesota Statutes 2022, section 149A.62, is amended to read:

149A.62 IMMUNITY; REPORTING.

Any person, private agency, organization, society, association, licensee, ~~or~~ intern, or transfer care specialist who, in good faith, submits information to a regulatory agency under section 149A.61 or otherwise reports violations or alleged violations of this chapter, is immune from civil liability or criminal prosecution. This section does not prohibit disciplinary action taken by the commissioner against any licensee ~~or~~, intern, or transfer care specialist pursuant to a self report of a violation.

9.1 Sec. 12. Minnesota Statutes 2022, section 149A.63, is amended to read:

9.2 **149A.63 PROFESSIONAL COOPERATION.**

9.3 A licensee, clinical student, practicum student, intern, transfer care specialist, or applicant
9.4 for licensure under this chapter that is the subject of or part of an inspection or investigation
9.5 by the commissioner or the commissioner's designee shall cooperate fully with the inspection
9.6 or investigation. Failure to cooperate constitutes grounds for disciplinary action under this
9.7 chapter.

9.8 Sec. 13. Minnesota Statutes 2022, section 149A.65, subdivision 2, is amended to read:

9.9 Subd. 2. **Mortuary science fees.** Fees for mortuary science are:

9.10 (1) \$75 for the initial and renewal registration of a mortuary science intern;

9.11 (2) \$125 for the mortuary science examination;

9.12 (3) \$200 for issuance of initial and renewal mortuary science licenses;

9.13 (4) \$100 late fee charge for a license renewal; ~~and~~

9.14 (5) \$250 for issuing a mortuary science license by endorsement; and

9.15 (6) \$..... for the initial and renewal registration of a transfer care specialist.

9.16 Sec. 14. Minnesota Statutes 2022, section 149A.70, subdivision 3, is amended to read:

9.17 Subd. 3. **Advertising.** No licensee, clinical student, practicum student, ~~or intern~~, or
9.18 transfer care specialist shall publish or disseminate false, misleading, or deceptive advertising.
9.19 False, misleading, or deceptive advertising includes, but is not limited to:

9.20 (1) identifying, by using the names or pictures of, persons who are not licensed to practice
9.21 mortuary science in a way that leads the public to believe that those persons will provide
9.22 mortuary science services;

9.23 (2) using any name other than the names under which the funeral establishment, alkaline
9.24 hydrolysis facility, or crematory is known to or licensed by the commissioner;

9.25 (3) using a surname not directly, actively, or presently associated with a licensed funeral
9.26 establishment, alkaline hydrolysis facility, or crematory, unless the surname had been
9.27 previously and continuously used by the licensed funeral establishment, alkaline hydrolysis
9.28 facility, or crematory; and

(4) using a founding or establishing date or total years of service not directly or continuously related to a name under which the funeral establishment, alkaline hydrolysis facility, or crematory is currently or was previously licensed.

Any advertising or other printed material that contains the names or pictures of persons affiliated with a funeral establishment, alkaline hydrolysis facility, or crematory shall state the position held by the persons and shall identify each person who is licensed or unlicensed under this chapter.

Sec. 15. Minnesota Statutes 2022, section 149A.70, subdivision 4, is amended to read:

Subd. 4. **Solicitation of business.** No licensee shall directly or indirectly pay or cause to be paid any sum of money or other valuable consideration for the securing of business or for obtaining the authority to dispose of any dead human body.

For purposes of this subdivision, licensee includes a registered intern, transfer care specialist, or any agent, representative, employee, or person acting on behalf of the licensee.

Sec. 16. Minnesota Statutes 2022, section 149A.70, subdivision 5, is amended to read:

Subd. 5. **Reimbursement prohibited.** No licensee, clinical student, practicum student, ~~or intern, or transfer care specialist~~ shall offer, solicit, or accept a commission, fee, bonus, rebate, or other reimbursement in consideration for recommending or causing a dead human body to be disposed of by a specific body donation program, funeral establishment, alkaline hydrolysis facility, crematory, mausoleum, or cemetery.

Sec. 17. Minnesota Statutes 2022, section 149A.70, subdivision 7, is amended to read:

Subd. 7. **Unprofessional conduct.** No licensee ~~or intern, or transfer care specialist~~ shall engage in or permit others under the licensee's ~~or intern's, or transfer care specialist's~~ supervision or employment to engage in unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(1) harassing, abusing, or intimidating a customer, employee, or any other person encountered while within the scope of practice, employment, or business;

(2) using profane, indecent, or obscene language within the immediate hearing of the family or relatives of the deceased;

(3) failure to treat with dignity and respect the body of the deceased, any member of the family or relatives of the deceased, any employee, or any other person encountered while within the scope of practice, employment, or business;

(4) the habitual overindulgence in the use of or dependence on intoxicating liquors, prescription drugs, over-the-counter drugs, illegal drugs, or any other mood altering substances that substantially impair a person's work-related judgment or performance;

(5) revealing personally identifiable facts, data, or information about a decedent, customer, member of the decedent's family, or employee acquired in the practice or business without the prior consent of the individual, except as authorized by law;

(6) intentionally misleading or deceiving any customer in the sale of any goods or services provided by the licensee;

(7) knowingly making a false statement in the procuring, preparation, or filing of any required permit or document; or

(8) knowingly making a false statement on a record of death.

Sec. 18. Minnesota Statutes 2022, section 149A.90, subdivision 2, is amended to read:

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 or registered 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.

Sec. 19. Minnesota Statutes 2022, 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 transfer care specialist 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;

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

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

12.6 Sec. 20. Minnesota Statutes 2022, section 149A.90, subdivision 5, is amended to read:

12.7 Subd. 5. **Retention of certificate of removal.** A copy of the certificate of removal shall
12.8 be given, where possible, to the person or representative of the legal entity having physical
12.9 or legal custody of the body at the death site. The original certificate of removal shall be
12.10 retained by the individual making the removal and shall be kept on file, at the funeral
12.11 establishment to which the body was taken, for a period of three calendar years following
12.12 the date of the removal. If the removal was performed by a transfer care specialist not
12.13 employed by the funeral establishment to which the body was taken, the transfer care
12.14 specialist must retain a copy of the certificate of removal at the transfer care specialist's
12.15 business address as registered with the commissioner for a period of three calendar years
12.16 following the date of removal. Following this period, and subject to any other laws requiring
12.17 retention of records, the funeral establishment may then place the records in storage or
12.18 reduce them to microfilm, microfiche, laser disc, or any other method that can produce an
12.19 accurate reproduction of the original record, for retention for a period of ten calendar years
12.20 from the date of the removal of the body. At the end of this period and subject to any other
12.21 laws requiring retention of records, the funeral establishment may destroy the records by
12.22 shredding, incineration, or any other manner that protects the privacy of the individuals
12.23 identified in the records.