

CHAPTER 149A

MORTUARY SCIENCE; DISPOSITION OF DEAD BODIES

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149A.01 PURPOSE AND SCOPE.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Nonlimiting.** 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.

History: 2001 c 171 s 5

149A.02 DEFINITIONS.

[For text of subs 1 to 3b, see M.S.2000]

Subd. 4. **Cash advance item.** "Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items include, but are not limited to, cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, obituary notices, gratuities, and death records.

[For text of subs 5 to 13, see M.S.2000]

Subd. 14. **Disciplinary action.** "Disciplinary action" means any action taken by the regulatory agency against any person subject to regulation under this chapter for the violation of or the threatened violation of any law, rule, order, stipulation agreement, settlement, compliance agreement, license, or permit adopted, issued, or enforced by the regulatory agency.

[For text of subs 15 to 37, see M.S.2000]

Subd. 37a. **Regulatory agency.** "Regulatory agency" means:

- (1) the commissioner of health for provisions related to a funeral provider who is required to be licensed, registered, or issued a permit under this chapter; and
- (2) the commissioner of commerce for provisions related to insurance policies purchased by a preneed consumer to arrange for funeral goods, funeral services, burial site goods, or burial services.

[For text of subs 38 to 40, see M.S.2000]

History: 2001 c 171 s 6,7; 1Sp2001 c 9 art 15 s 32

149A.04 ENFORCEMENT.

[For text of subd 1, see M.S.2000]

Subd. 2. **Inspections.** The regulatory agency or a designee of the regulatory agency shall conduct initial licensure inspections and corrective order reinspections. As a

condition of continued licensure, compliance reviews or premises inspections of licensees shall be conducted by the regulatory agency or a designee of the regulatory agency at least biennially. A compliance review or an inspection of the premises of any person subject to regulation under this chapter may also be conducted when the regulatory agency reasonably suspects that there may be a violation or a threat of a violation of any law now in force or later enacted, rule, order, stipulation agreement, settlement, compliance agreement, license, or permit issued by the regulatory agency. When possible, all inspections and compliance reviews shall be conducted without prior notice to the subject of the inspection or review and shall be performed in the presence of the subject of the inspection or review or an authorized representative of the subject of the inspection or review.

Subd. 3. Access to information and property. The regulatory agency or a designee of the regulatory agency, upon presentation of credentials, may:

(1) examine and copy any relevant books, papers, records, memoranda, or data of any person subject to regulation under this chapter; and

(2) enter upon any property, public or private, for the purpose of taking any action authorized under this chapter or rules, orders, stipulation agreements, settlements, compliance agreements, licenses, or permits adopted or issued by the regulatory agency, including obtaining information from a person that has a duty to provide information under this chapter or conducting inspections or investigations.

Subd. 4. Subpoena power. The regulatory agency may, as part of an investigation, issue subpoenas to require the attendance and testimony of witnesses and production of books, records, correspondence, and other information relevant to any matter involved in the investigation. The regulatory agency or the regulatory agency's designee may administer oaths to witnesses or take their affirmation. The subpoenas may be served upon any person named therein anywhere in the state by any person authorized to serve subpoenas or other processes in civil actions of the district courts. If a person to whom a subpoena is issued does not comply with the subpoena, the regulatory agency may apply to the district court in any district and the court may order compliance with the subpoena. Failure to obey the order of the court may be punished as contempt of court.

Subd. 5. Data on investigations and disciplinary actions. Data relating to any disciplinary measures or actions anticipated or taken by the regulatory agency are classified as follows:

(1) data on persons other than individuals are civil investigative data under section 13.39;

(2) data on individuals are licensing data under section 13.41; and

(3) data on individuals who submit complaints to the regulatory agency regarding activities or practices regulated under this chapter are confidential data on individuals while an investigation is active and private data on individuals when an investigation becomes inactive.

Subd. 6. Cooperation with other authorities. The regulatory agency shall encourage and promote cooperation between and among other state and federal authorities where there is concurrent or overlapping enforcement or licensing jurisdiction.

History: 2001 c 171 s 13

149A.05 CORRECTION ORDERS.

Subdivision 1. Authorization. The regulatory agency may issue correction orders that require a person subject to regulation under this chapter to correct violations of this chapter or rules, orders, stipulation agreements, settlements, compliance agreements, licenses, and permits adopted or issued by the regulatory agency.

[For text of subd 2, see M.S.2000]

Subd. 3. Request for hearing; hearing; and final order. A request for hearing must be in writing, delivered to the regulatory agency by certified mail within 20 calendar

days after the receipt of the correction order, and specifically state the reasons for seeking review of the order. The regulatory agency must initiate a hearing within 30 calendar days from the date of receipt of the written request for hearing. The hearing shall be conducted pursuant to the contested case procedures in sections 14.57 to 14.62. No earlier than ten calendar days after and within 30 calendar days of receipt of the presiding administrative law judge's report, the regulatory agency shall issue a final order modifying, vacating, or making permanent the correction order as the facts require. If, within 20 calendar days of receipt of the correction order, the person that is the subject of the order fails to request a hearing in writing, the correction order becomes the final order of the regulatory agency.

Subd. 4. **Review of final order.** A judicial review of the final order issued by the regulatory agency subsequent to a contested case hearing may be requested in the manner prescribed in sections 14.63 to 14.69. Failure to request a contested case hearing pursuant to subdivision 3 shall constitute a waiver of the right to further agency or judicial review of the final order.

Subd. 5. **Reinspections and effect of noncompliance.** If upon reinspection, or in the determination of the regulatory agency, it is found that any deficiency specified in a correction order has not been corrected by the person that is subject to the correction order, that person or entity is in noncompliance. The regulatory agency shall issue a notice of noncompliance and may impose any additional remedy available under this chapter.

History: 2001 c 171 s 13

149A.06 ADMINISTRATIVE PENALTY ORDERS.

Subdivision 1. **Authorization.** The regulatory agency may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of this chapter or rules, orders, stipulation agreements, settlements, compliance agreements, licenses, and permits adopted, enforced, or issued by the regulatory agency.

[For text of subd 2, see M.S.2000]

Subd. 3. **Concurrent corrective order.** The regulatory agency may issue an order assessing an administrative penalty and requiring the violations cited in the order to be corrected by the regulatory agency within 30 calendar days from the date the order is received. The subject of the order shall provide to the regulatory agency before the 31st day after the order was received, information demonstrating that the violation has been corrected or that a corrective plan, acceptable to the regulatory agency, has been developed. The regulatory agency shall determine whether the violation has been corrected and notify the subject of the order of the regulatory agency's determination.

Subd. 4. **Penalty.** If the regulatory agency determines that the violation has been corrected or an acceptable corrective plan has been developed, the penalty may be forgiven, except, where there are repeated or serious violations, the regulatory agency may issue an order with a penalty that will not be forgiven after corrective action is taken. Unless there is a request for review of the order under subdivision 6 before the penalty is due, the penalty is due and payable:

(1) on the 31st calendar day after the order was received, if the subject of the order fails to provide information to the regulatory agency showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation;

(2) on the 20th day after the subject of the order receives the regulatory agency's determination that the information provided is not sufficient to show that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(3) on the 31st day after the order was received where the penalty is for repeated or serious violations and according to the order issued, the penalty will not be forgiven after corrective action is taken.

All penalties due under this section are payable to the treasurer, state of Minnesota, and shall be credited to the state government special revenue fund in the state treasury.

Subd. 5. Amount of penalty; considerations. (a) The maximum amount of administrative penalty orders is \$10,000 for each specific violation identified in an inspection, investigation, or compliance review.

(b) In determining the amount of the administrative penalty, the regulatory agency shall consider the following:

- (1) the willfulness of the violation;
- (2) the gravity of the violation;
- (3) the history of past violations;
- (4) the number of violations;

(5) the economic benefit gained by the person allowing or committing the violation; and

(6) other factors as justice may require, if the regulatory agency specifically identifies the additional factors in the regulatory agency's order.

(c) In determining the amount of a penalty for a violation subsequent to an initial violation under paragraph (a), the regulatory agency shall also consider:

- (1) the similarity of the most recent previous violation and the violation to be penalized;
- (2) the time elapsed since the last violation; and
- (3) the response of the subject of the order to the most recent previous violation.

Subd. 6. Request for hearing; hearing; and final order. A request for hearing must be in writing, delivered to the regulatory agency by certified mail within 20 calendar days after the receipt of the order, and specifically state the reasons for seeking review of the order. The regulatory agency must initiate a hearing within 30 calendar days from the date of receipt of the written request for hearing. The hearing shall be conducted pursuant to the contested case procedures in sections 14.57 to 14.62. No earlier than ten calendar days after and within 30 calendar days of receipt of the presiding administrative law judge's report, the regulatory agency shall, based on all relevant facts, issue a final order modifying, vacating, or making the original order permanent. If, within 20 calendar days of receipt of the original order, the person that is the subject of the order fails to request a hearing in writing, the order becomes the final order of the regulatory agency.

Subd. 7. Review of final order and payment of penalty. Once the regulatory agency issues a final order, any penalty due under that order shall be paid within 30 calendar days after the date of the final order, unless review of the final order is requested. The final order of the regulatory agency may be appealed in the manner prescribed in sections 14.63 to 14.69. If the final order is reviewed and upheld, the penalty shall be paid 30 calendar days after the date of the decision of the reviewing court. Failure to request an administrative hearing pursuant to subdivision 6 shall constitute a waiver of the right to further agency or judicial review of the final order.

Subd. 8. Reinspections and effect of noncompliance. If upon reinspection, or in the determination of the regulatory agency, it is found that any deficiency specified in the order has not been corrected or an acceptable corrective plan has not been developed, the person that is subject to the order is in noncompliance. The regulatory agency shall issue a notice of noncompliance and may impose any additional remedy available under this chapter.

Subd. 9. Enforcement. The attorney general may proceed on behalf of the regulatory agency to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

Subd. 10. Revocation; suspension; denial of license; permit; or registration. Failure to pay penalties owed under this section constitutes grounds for the revocation

or suspension of or refusal to reissue a license or permit issued by the regulatory agency under this chapter.

Subd. 11. **Cumulative remedy.** The authority of the regulatory agency to issue an administrative penalty order is in addition to other lawfully available remedies.

Subd. 12. **Mediation.** In addition to review under subdivision 6, the regulatory agency is authorized to enter into mediation concerning an order issued under this section if the regulatory agency and the subject of that order agree to mediation.

History: 2001 c 171 s 13

149A.07 INJUNCTIVE RELIEF.

In addition to any other remedy provided by law, the regulatory agency may bring an action for injunctive relief in any district court in any district in Minnesota to restrain any person from violation or threatened violation of any law, rule, order, stipulation agreement, settlement, compliance agreement, license, or permit which the regulatory agency is empowered to enforce, regulate, or issue.

History: 2001 c 171 s 13

149A.08 CEASE AND DESIST ORDER.

Subdivision 1. **Authorization.** In addition to any other remedy provided by law, the regulatory agency may issue a cease and desist order to:

(1) stop a person from violating or threatening to violate any law, rule, order, stipulation agreement, settlement, compliance agreement, license, or permit which the regulatory agency is empowered to regulate, enforce, or issue; or

(2) prohibit a funeral provider from engaging in the sale of preneed funeral goods, funeral services, burial site goods, or burial site services if the funeral provider has been found in violation of any provision of this chapter.

[For text of subd 2, see M.S.2000]

Subd. 2a. **Sale of preneed goods or services; contents of order, hearing, when effective.** (a) This subdivision applies to cease and desist orders issued pursuant to subdivision 1, clause (2).

(b) In addition to the requirements of subdivision 2, a cease and desist order must also specify that the hearing to which the funeral provider has a right occurs, if requested, before the order goes into effect and that a timely request for a hearing automatically stays the cease and desist order.

(c) A request for a hearing must be in writing, must be delivered to the regulatory agency by certified mail within 20 calendar days after the funeral provider receives the order, and must specifically state the reasons for seeking review of the order. If the funeral provider fails to request a hearing in writing within 20 calendar days of receipt of the order, the cease and desist order becomes the final order of the regulatory agency. If a funeral provider makes a timely request for a hearing, the cease and desist order is automatically stayed pending the outcome of the hearing. The regulatory agency must initiate a hearing within 30 calendar days from the date of receiving the written request for hearing. The hearing shall be conducted pursuant to sections 14.57 to 14.62. No earlier than ten calendar days but within 30 calendar days of receiving the presiding administrative law judge's report, the regulatory agency shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require.

Subd. 3. **Request for hearing; hearing; and final order.** This subdivision applies to cease and desist orders issued pursuant to subdivision 1, clause (1). A request for hearing must be in writing, delivered to the regulatory agency by certified mail within 20 calendar days after the receipt of the cease and desist order, and specifically state the reasons for seeking review of the order. The regulatory agency must initiate a hearing within 30 calendar days from the date of receipt of the written request for hearing. The hearing shall be conducted pursuant to sections 14.57 to 14.62. No earlier

than ten calendar days but within 30 calendar days of receipt of the presiding administrative law judge's report, the regulatory agency shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. If, within 20 calendar days of receipt of the cease and desist order, the subject of the order fails to request a hearing in writing, the cease and desist order becomes the final order of the regulatory agency.

Subd. 4. Request for stay. This subdivision applies to cease and desist orders issued pursuant to subdivision 1, clause (1). When a request for a stay accompanies a timely hearing request, the regulatory agency may, in the regulatory agency's discretion, grant the stay. If the regulatory agency does not grant a requested stay, the regulatory agency shall refer the request to the office of administrative hearings within three working days from the receipt of the request. Within ten calendar days after receiving the request from the regulatory agency, an administrative law judge shall issue a recommendation to grant or deny the stay. The regulatory agency shall grant or deny the stay within five calendar days of receiving the administrative law judge's recommendation.

Subd. 5. 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 3 shall constitute a waiver of the right to further agency or judicial review of the final order.

Subd. 6. Effect of noncompliance with order. In the event of noncompliance with the cease and desist order, the regulatory agency may:

- (1) institute a proceeding in any district court in any district in Minnesota to obtain injunctive relief;
- (2) impose an administrative penalty, pursuant to section 149A.06, for each separate violation; or
- (3) revoke, suspend, limit, or condition the license or permit issued to the subject of the cease and desist order.

[For text of subd 7, see M.S.2000]

History: 2001 c 171 s 13

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

Subdivision 1. Denial; refusal to renew; revocation; and suspension. The regulatory agency may deny, refuse to renew, revoke, or suspend any license 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 or permit under this chapter;
- (2) submits false or misleading material information to the regulatory agency in connection with a license or permit issued by the regulatory agency or the application for a license or permit;
- (3) violates any law, rule, order, stipulation agreement, settlement, compliance agreement, license, 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, mentally retarded, 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 or permit. If the regulatory agency proposes to deny renewal, suspend, or revoke a license 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 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.

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

History: 2001 c 171 s 13

149A.10 ADDITIONAL REMEDIES.

Subdivision 1. Reimbursement of costs. The regulatory agency may impose a fee on any person subject to regulation under this chapter to reimburse the department of health for all or part of the cost of contested case proceedings or civil action resulting in disciplinary action, including, but not limited to, the amount paid by the regulatory agency for services from the office of administrative hearings, attorney fees, court reports, witnesses, reproduction of records, staff time, and other expenses.

[For text of subd 2, see M.S.2000]

Subd. 3. Other actions. The regulatory agency may take any other lawful action justified by the facts of the case.

History: 2001 c 171 s 13

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, the nature of the misconduct, and the measure or action taken by the regulatory agency.

History: 2001 c 171 s 8

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, 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.

History: 2001 c 171 s 13

149A.61 COMPLAINTS; REPORTING OBLIGATIONS; FORM; RESPONSE.

Subdivision 1. **Permission to report.** Any person, agency, political subdivision, organization, or association that has knowledge of any conduct constituting grounds for disciplinary action relating to licensure, licensed activities or practices, or unlicensed activities under this chapter may report the conduct to the regulatory agency.

Subd. 2. **Institutions.** A federal or state agency, political subdivision, agency of a local unit of government, or private agency or organization located in this state or any other state in the United States may report to the regulatory agency any conduct that is regulated under this chapter and that might constitute grounds for disciplinary action. The agency, political subdivision, or organization may report:

(1) any action taken to revoke, suspend, restrict, or condition a license issued by the agency, political subdivision, or organization;

(2) any denial of privileges granted by the agency, political subdivision, or organization;

(3) the resignation of any licensee prior to the conclusion of any disciplinary action or proceeding for conduct that might constitute grounds for disciplinary action under this chapter; or

(4) any other disciplinary action taken by the agency, political subdivision, or organization for conduct that might constitute grounds for disciplinary action under this chapter.

Subd. 3. **Professional societies or associations.** A national, regional, state, or local professional society or association for licensees may forward to the regulatory agency any complaint received concerning conduct or activity that is regulated under this chapter. The society or association may report to the regulatory agency any disciplinary action taken against a member of that society or association.

[For text of subs 4 and 5, see M.S.2000]

Subd. 6. **Complaint form.** Complaints or reports made under this section may be submitted to the regulatory agency on forms provided by the regulatory agency. The regulatory agency, where appropriate, shall provide each complainant with a written acknowledgment of the receipt of the completed complaint form.

Subd. 7. **Information to complainant.** The regulatory agency shall furnish to a complainant a statement of the result of an investigation of the complaint and a description of the activities and actions of the regulatory agency relating to the complaint to the extent that the statement is consistent with section 149A.04, subdivision 5.

Subd. 8. **Classification of data.** Section 149A.04, subdivision 5, applies to data submitted to the regulatory agency under this section.

History: 2001 c 171 s 13

149A.62 IMMUNITY; REPORTING.

Any person, private agency, organization, society, association, licensee, or intern 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 pursuant to a self report of a violation.

History: 2001 c 171 s 9

149A.70 BUSINESS PRACTICES.

[For text of subs 1 to 6, see M.S.2000]

Subd. 7. **Unprofessional conduct.** No licensee or intern shall engage in or permit others under the licensee's or intern'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
- (8) knowingly making a false statement on a record of death.

[For text of subs 8 and 9, see M.S.2000]

History: 1Sp2001 c 9 art 15 s 32

149A.71 FUNERAL INDUSTRY PRACTICES; PRICE DISCLOSURES.

[For text of subs 1 to 3, see M.S.2000]

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 to the public must maintain a record of each sale that includes the name of the purchaser, the purchaser's mailing address, the name of the decedent, the date of the decedent's death, and the place of death. These records shall be open to inspection by the regulatory agency and reported to the commissioner. Any funeral provider selling a casket, alternate container, or cremation container to the public, and not having charge of the final disposition of the dead human body, shall enclose within the casket, alternate container, or cremation container information provided by the commissioner that includes a blank record of death, and a copy of the statutes and rules controlling the removal, preparation, transportation, arrangements for disposition, and final disposition of a dead human body. This subdivision does not

apply to morticians, funeral directors, funeral establishments, crematories, or wholesale distributors of caskets, alternate containers, or cremation containers.

History: 2001 c 171 s 10; 1Sp2001 c 9 art 15 s 32

149A.81 ANATOMICAL GIFTS.

[For text of subd 1, see M.S.2000]

Subd. 2. Duty of disposition; gift of whole body. When the gift is of the whole body, after it has served the purpose of the gift, subject to the terms of the gift, the body shall be decently buried in a public or private cemetery or cremated and disposed of in any lawful manner and the expense of transporting and burying or cremating the body shall be borne by the donee of the body. Where the donee allows embalming of the body and a funeral service prior to delivery of the body for gift purposes, this chapter applies until the body is delivered to the donee pursuant to the gift. Where the donee takes immediate delivery of the body pursuant to the gift, the donee must complete and file the death record. If the donee does not accept the gift of the body, the right to control; duty of disposition, and liability for disposition shall be in accordance with section 149A.80.

History: 1Sp2001 c 9 art 15 s 32

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

Subdivision 1. Death record. 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 disposition of the body.

[For text of subds 2 to 8, see M.S.2000]

History: 1Sp2001 c 9 art 15 s 32

149A.93 TRANSPORTATION OF DEAD HUMAN BODIES.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. Disposition permit. A disposition permit shall be required before a body can be buried, entombed, or cremated, or when a body will be retained for more than five calendar days. No disposition permit shall be issued until a death record has been completed or the issuing authority receives firm assurances that the death record will be completed within a reasonable amount of time not to exceed seven calendar days from the issuance of the permit.

[For text of subds 4 to 9, see M.S.2000]

History: 1Sp2001 c 9 art 15 s 32

149A.95 CREMATORIES AND CREMATION.

[For text of subds 1 to 5, see M.S.2000]

Subd. 6. Acceptance of delivery of body. No dead human body shall be accepted for disposition by cremation unless encased in an appropriate cremation container or casket, accompanied by a disposition permit issued pursuant to section 149A.93, subdivision 3, including a photocopy of the completed death record or a signed release authorizing cremation of the body received from the coroner or medical examiner, and accompanied by a cremation authorization that complies with subdivision 4. A crematory may refuse to accept delivery of a cremation container where there is:

- (1) evidence of leakage of fluids from the body;
- (2) a known dispute concerning cremation of the body delivered;
- (3) a reasonable basis for questioning any of the representations made on the written authorization to cremate; or
- (4) any other lawful reason.

[For text of subs 7 to 19, see M.S.2000]

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

- (1) the name of the person or funeral establishment delivering the body for cremation;
 - (2) the name of the deceased and the identification number assigned to the body;
 - (3) the date of acceptance of delivery;
 - (4) the names of the cremation chamber and mechanical processor operator;
 - (5) the time and date that the body was placed in and removed from the cremation chamber;
 - (6) the time and date that processing and inurnment of the cremated remains was completed;
 - (7) the time, date, and manner of release of the cremated remains;
 - (8) the name and address of the person who signed the authorization to cremate;
- and
- (9) all supporting documentation, including any transit or disposition permits, a photocopy of the death record, and the authorization to cremate.

[For text of subd 21, see M.S.2000]

History: *1Sp2001 c 9 art 15 s 32*

149A.96 DISINTERMENT AND REINTERMENT.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Disinterment procedure; removal from dedicated cemetery.** No dead human body or human remains shall be disinterred and removed from a dedicated cemetery for reinterment elsewhere without a written and notarized authorization from the person or persons with the legal right to control the disposition and a disinterment-transit-reinterment permit issued by the local registrar or subregistrar. The person or persons requesting the disinterment and reinterment must obtain a copy of the death record showing the manner and location of final disposition. The copy of the death record along with written and notarized authorization to disinter and reinter obtained from the person or persons with legal right to control the body as expressed in section 149A.80, and a written and notarized statement of the reasons for requesting disinterment, the manner in which the body or remains will be disinterred and transported, the location of reinterment, and whether there are any known parties who oppose the disinterment shall be submitted to the registrar or a subregistrar in the registration district or county where the body or remains are interred. If the request for disinterment is unopposed, the registrar or subregistrar shall issue a disinterment-transit-reinterment permit. If the disinterment is opposed, no permit shall issue until the registrar or subregistrar receives a certified copy of a court order showing reasonable cause to disinter.

[For text of subs 5 and 6, see M.S.2000]

Subd. 7. **Filing of documentation of disinterment and reinterment.** The cemetery where the body or remains were originally interred shall retain a copy of the disinterment-transit-reinterment permit, the authorization to disinter, the death record, and, if applicable, the court order showing reasonable cause to disinter. Until the body or remains are reinterred the original permit and other documentation shall be in the possession of the person in physical or legal custody of the body or remains, or attached to the transportation container which holds the body or remains. At the time of reinterment, the permit and other documentation shall be filed according to the laws, rules, or regulations of the state or country where reinterment occurs. Where the body or remains are to be removed from a dedicated cemetery for reinterment

elsewhere, the authority issuing the disinterment-transit-reinterment permit shall forward a photocopy of the issued permit to the commissioner to be filed with the original death record.

[For text of subds 8 to 10, see M.S.2000]

History: *1Sp2001 c 9 art 15 s 32*

149A.97 PRENEED ARRANGEMENTS.

[For text of subds 1 to 7, see M.S.2000]

Subd. 8. Investigations by state auditor. Upon notification from the county auditor or a regulatory agency of indications of violations of this chapter, or upon reliable written verification by any person, the state auditor shall make an independent determination of whether a violation of the provisions in this chapter is occurring or is about to occur. If the state auditor finds such evidence, the state auditor shall conduct any examinations of accounts and records of the entity that the state auditor considers the public interest to demand and shall inform the appropriate agency of any finding of misconduct. The state auditor may require the entity being examined to send all books, accounts, and vouchers pertaining to the receipt, disbursement, and custody of funds to the office of the state auditor for examination. The person, firm, partnership, association, or corporation examined under this section by the state auditor shall reimburse the state auditor for expenses incurred in conducting the examination within 30 days after the state auditor submits its expenses. Interest at the rate established in section 549.09 shall accrue on the outstanding balance starting on the 31st day after the state auditor's office submits its request for expenses.

[For text of subds 9 to 12, see M.S.2000]

History: *2001 c 171 s 11*