

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4160

03/10/2022 Authored by Schomacker The bill was read for the first time and referred to the Committee on Health Finance and Policy

1.1 A bill for an act
1.2 relating to mortuary science; authorizing a transfer care specialist to perform the
1.3 removal of a dead body from the place of death; amending Minnesota Statutes
1.4 2020, sections 149A.01, subdivisions 2, 3; 149A.02, by adding subdivisions;
1.5 149A.03; 149A.11; 149A.60; 149A.61, subdivisions 4, 5; 149A.62; 149A.63;
1.6 149A.65, subdivision 2; 149A.70, subdivisions 3, 4, 5, 7; 149A.90, subdivisions
1.7 2, 4; proposing coding for new law in Minnesota Statutes, chapter 149A.

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

1.9 Section 1. Minnesota Statutes 2020, section 149A.01, subdivision 2, is amended to read:

1.10 Subd. 2. Scope. In Minnesota no person shall, without being licensed or registered by
1.11 the commissioner of health:

- 1.12 (1) take charge of or remove from the place of death a dead human body;
1.13 (2) prepare a dead human body for final disposition, in any manner; or
1.14 (3) arrange, direct, or supervise a funeral, memorial service, or graveside service.

1.15 Sec. 2. Minnesota Statutes 2020, section 149A.01, subdivision 3, is amended to read:

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

- 1.18 (1) an anatomical bequest program located within an accredited school of medicine or
1.19 an accredited college of mortuary science;
1.20 (2) a person engaged in the performance of duties prescribed by law relating to the
1.21 conditions under which unclaimed dead human bodies are held subject to anatomical study;

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

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

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

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

2.9 (c) Noncompensated persons with the right to control the dead human body, under section
2.10 149A.80, subdivision 2, may remove a body from the place of death; transport the body;
2.11 prepare the body for disposition, except embalming; or arrange for final disposition of the
2.12 body, provided that all actions are in compliance with this chapter.

2.13 (d) Persons serving internships pursuant to section 149A.20, subdivision 6, ~~or~~ students
2.14 officially registered for a practicum or clinical through a program of mortuary science
2.15 accredited by the American Board of Funeral Service Education, or transfer care specialists
2.16 registered pursuant to section 149A.47 are not required to be licensed, provided that the
2.17 persons or students are registered with the commissioner and act under the direct and
2.18 exclusive supervision of a person holding a current license to practice mortuary science in
2.19 Minnesota.

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

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

2.29 Sec. 3. Minnesota Statutes 2020, section 149A.02, is amended by adding a subdivision to
2.30 read:

2.31 Subd. 37d. **Registrant.** "Registrant" means any person who is registered as a transfer
2.32 care specialist under section 149A.47.

3.1 Sec. 4. Minnesota Statutes 2020, section 149A.02, is amended by adding a subdivision to
3.2 read:

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

3.7 Sec. 5. Minnesota Statutes 2020, section 149A.03, is amended to read:

3.8 **149A.03 DUTIES OF COMMISSIONER.**

3.9 The commissioner shall:

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

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

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

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

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

3.17 (v) licensing and operation of a crematory;

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

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

3.22 (4) maintain a record of the name and location of all current licensees, registrants, and
3.23 interns;

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

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

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

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

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

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

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

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

4.10 Sec. 6. Minnesota Statutes 2020, section 149A.11, is amended to read:

4.11 **149A.11 PUBLICATION OF DISCIPLINARY ACTIONS.**

4.12 The regulatory agencies shall report all disciplinary measures or actions taken to the
 4.13 commissioner. At least annually, the commissioner shall publish and make available to the
 4.14 public a description of all disciplinary measures or actions taken by the regulatory agencies.
 4.15 The publication shall include, for each disciplinary measure or action taken, the name and
 4.16 business address of the licensee, registrant, or intern, the nature of the misconduct, and the
 4.17 measure or action taken by the regulatory agency.

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

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

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

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

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

4.30 (ii) the name, license number, business address, and telephone number of the supervising
 4.31 licensed mortician and the funeral establishment employing the applicant;

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

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

5.4 Subd. 3. **Duties.** A transfer care specialist registered under this section is authorized to
 5.5 perform the removal of a dead human body from the place of death in accordance with this
 5.6 chapter if the final disposition of the decedent will be handled by a licensed funeral
 5.7 establishment. The transfer care specialist must work under the direct supervision of a
 5.8 licensed mortician and must be employed by a licensed funeral establishment. The
 5.9 supervising mortician is responsible for the work performed by the transfer care specialist.
 5.10 A licensed mortician may supervise up to two transfer care specialists at any one time.

5.11 Subd. 4. **Training program.** (a) Each transfer care specialist must complete a training
 5.12 program that has been approved by the commissioner. To be approved, a training program
 5.13 must be at least seven hours long and must cover, at a minimum, the following:

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

5.15 (2) health and safety concerns to the public and the individual performing the transfer
 5.16 of the deceased person; and

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

5.19 (b) A transfer care specialist must complete a training program every five years.

5.20 Subd. 5. **Registration renewal.** (a) A registration issued under this section expires one
 5.21 year after the date of issuance and must be renewed to remain valid.

5.22 (b) To renew a registration, the transfer care specialist must submit a completed renewal
 5.23 application as provided by the commissioner and the appropriate fees specified in section
 5.24 149A.65. Every five years, the renewal application must include proof of completion of a
 5.25 training program that meets the requirements in subdivision 4.

5.26 Sec. 8. Minnesota Statutes 2020, section 149A.60, is amended to read:

5.27 **149A.60 PROHIBITED CONDUCT.**

5.28 The regulatory agency may impose disciplinary measures or take disciplinary action
 5.29 against a person whose conduct is subject to regulation under this chapter for failure to
 5.30 comply with any provision of this chapter or laws, rules, orders, stipulation agreements,
 5.31 settlements, compliance agreements, licenses, registrations, and permits adopted; or issued
 5.32 for the regulation of the removal, preparation, transportation, arrangements for disposition

6.1 or final disposition of dead human bodies, or for the regulation of the practice of mortuary
6.2 science.

6.3 Sec. 9. Minnesota Statutes 2020, section 149A.61, subdivision 4, is amended to read:

6.4 Subd. 4. **Licensees, registrants, and interns.** A licensee, registrant, or intern regulated
6.5 under this chapter may report to the commissioner any conduct that the licensee, registrant,
6.6 or intern has personal knowledge of, and reasonably believes constitutes grounds for,
6.7 disciplinary action under this chapter.

6.8 Sec. 10. Minnesota Statutes 2020, section 149A.61, subdivision 5, is amended to read:

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

6.16 Sec. 11. Minnesota Statutes 2020, section 149A.62, is amended to read:

6.17 **149A.62 IMMUNITY; REPORTING.**

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

6.24 Sec. 12. Minnesota Statutes 2020, section 149A.63, is amended to read:

6.25 **149A.63 PROFESSIONAL COOPERATION.**

6.26 A licensee, clinical student, practicum student, registrant, intern, or applicant for licensure
6.27 under this chapter that is the subject of or part of an inspection or investigation by the
6.28 commissioner or the commissioner's designee shall cooperate fully with the inspection or
6.29 investigation. Failure to cooperate constitutes grounds for disciplinary action under this
6.30 chapter.

7.1 Sec. 13. Minnesota Statutes 2020, section 149A.65, subdivision 2, is amended to read:

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

7.3 (1) \$75 for the initial and renewal registration of a mortuary science intern;

7.4 (2) \$125 for the mortuary science examination;

7.5 (3) \$200 for issuance of initial and renewal mortuary science licenses;

7.6 (4) \$100 late fee charge for a license renewal; ~~and~~

7.7 (5) \$250 for issuing a mortuary science license by endorsement; and

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

7.9 Sec. 14. Minnesota Statutes 2020, section 149A.70, subdivision 3, is amended to read:

7.10 Subd. 3. **Advertising.** No licensee, registrant, clinical student, practicum student, or
7.11 intern shall publish or disseminate false, misleading, or deceptive advertising. False,
7.12 misleading, or deceptive advertising includes, but is not limited to:

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

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

7.18 (3) using a surname not directly, actively, or presently associated with a licensed funeral
7.19 establishment, alkaline hydrolysis facility, or crematory, unless the surname had been
7.20 previously and continuously used by the licensed funeral establishment, alkaline hydrolysis
7.21 facility, or crematory; and

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

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

8.1 Sec. 15. Minnesota Statutes 2020, section 149A.70, subdivision 4, is amended to read:

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

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

8.7 Sec. 16. Minnesota Statutes 2020, section 149A.70, subdivision 5, is amended to read:

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

8.13 Sec. 17. Minnesota Statutes 2020, section 149A.70, subdivision 7, is amended to read:

8.14 Subd. 7. **Unprofessional conduct.** No licensee, registrant, or intern shall engage in or
8.15 permit others under the licensee's, registrant's, or intern's supervision or employment to
8.16 engage in unprofessional conduct. Unprofessional conduct includes, but is not limited to:

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

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

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

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

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

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

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

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

9.4 Sec. 18. Minnesota Statutes 2020, section 149A.90, subdivision 2, is amended to read:

9.5 Subd. 2. **Removal from place of death.** No person subject to regulation under this
9.6 chapter shall remove or cause to be removed any dead human body from the place of death
9.7 without being licensed or registered by the commissioner. Every dead human body shall be
9.8 removed from the place of death by a licensed mortician or funeral director, except as
9.9 provided in section 149A.01, subdivision 3, or 149A.47.

9.10 Sec. 19. Minnesota Statutes 2020, section 149A.90, subdivision 4, is amended to read:

9.11 Subd. 4. **Certificate of removal.** No dead human body shall be removed from the place
9.12 of death by a mortician ~~or~~, funeral director, or transfer care specialist or by a noncompensated
9.13 person with the right to control the dead human body without the completion of a certificate
9.14 of removal and, where possible, presentation of a copy of that certificate to the person or a
9.15 representative of the legal entity with physical or legal custody of the body at the death site.
9.16 The certificate of removal shall be in the format provided by the commissioner that contains,
9.17 at least, the following information:

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

9.19 (2) the date and time of removal;

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

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

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

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