

DEAD BODIES: Consent of the Secretary of the State Anatomical Board must first be obtained before an autopsy may be performed on unclaimed dead bodies.

4-26
April 23, 1935.

Hon. M. D. Overholser
Secretary
Missouri State Anatomical Board
Columbia, Missouri



Dear Sir:

This is to acknowledge your letter which reads as follows:

"I am enclosing a copy of a letter just received from Dr. Schoemaker, President of the Missouri State Anatomical Board.

"The City Hospital of St. Louis is apparently violating our State Anatomical Law by performing autopsies on unclaimed bodies. They justify this procedure by obtaining the consent of the dying patient for the autopsy. The Anatomical Board maintains that this is illegal and asks for a ruling from you in regard to this matter."

The letter of Dr. Schoemaker, appended to your request, reads as follows:

"Some more grief for us. The City Hospital is securing the consent of a dying patient, having no relatives, for an autopsy. I objected strenuously - They tell me that an opinion from the City Legal Dep't states that they have the right to do so.

"Our Law states that: 'Immediately upon the death of such person they become the property of the Anatomical Board.' I think we should do something about this.

"I have been told many a time that the Supreme Court has ruled that a person loses all equity in his body at time of death.

"In olden times when schools and Dr's 'bought' a persons body, paying in advance, they were not able to collect. My contention is that they have no right to such procedure.

"Just had a talk with Dr. Terry, who joins me in urging that you secure an opinion from the Attorney-General."

Section 9129, R. S. Mo. 1929, provides:

"Superintendents or wardens of penitentiaries, houses of correction and bridewells, of hospitals, insane asylums and poorhouses, and coroners, sheriffs, jailers, city and county undertakers, and all other state, county, town or city officers in whose custody the body of any deceased person, required to be buried at public expense, shall be and are hereby required immediately to notify the secretary of the board of distribution, whenever any such body or bodies come to his or their possession, charge or control, and shall thereafter dispose of such body or bodies, as the secretary of the state board may direct: Provided, that at any time before said body or bodies have actually been distributed, as provided in this article, any relative or friend of any such deceased person or persons, shall have the right to take and receive the same from the possession of any person in whose charge or custody it may be found, for the purpose of interment: Provided, that when a claim is made for such body or bodies by any person, not a relative of such deceased person or persons, the expense of the interment shall be borne by the person making such claim. The school or college securing such body shall pay all necessary expense incurred in the delivery thereof, including cost of notice to secretary, which notice shall be by telegraph, when neces-

sary. A correct record of all such bodies, name and date of death, shall be kept in a book kept for that purpose with the county clerk of the county in which such person died, or the city health commissioner of St. Louis city, and such record must be furnished said county officer by person or persons reporting said bodies to the state anatomical board."

Section 9132, R. S. 1929, provides:

"It is hereby declared unlawful for any person or persons to hold an autopsy on any dead human body mentioned in this article, without the written, telegraphic or telephonic consent of the secretary of said board first had and obtained."

In view of the provisions of Section 9129, supra, we are of the opinion that it is mandatory upon the superintendent or person having the custody or possession of the body of any deceased person, required to be buried at public expense, to immediately notify the secretary of the state board regarding the disposition of said body.

Section 9132, supra, plainly states that it is unlawful for any person or persons to hold an autopsy on any dead human body without the written, telegraphic or telephonic consent of the secretary of said board first had and obtained.

Your attention is directed to Section 9134, R. S. 1929, which provides as follows:

"Any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not less than fifty dollars nor more than five hundred dollars."

We are of the opinion and therefore conclude in construing the above mentioned statutes that if the consent of a patient, who is about to die, is obtained for the purpose

of performing an autopsy on such patient's dead body, then before an autopsy could be performed on such deceased person's body, the provisions of Section 9129, supra, must be first complied with; in other words, the consent of the patient would not operate to circumvent the application of Section 9132, supra.

Yours very truly,

J. E. TAYLOR
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

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