

DEAD HUMAN BODIES:  
STATE ANATOMICAL BOARD:  
DISPOSITION OF:

A dead human body, which is not required to be buried at public expense, does not come within the jurisdiction of the Missouri State Anatomical Board.



July 17, 1957

M. D. Overholser, M. D.  
Secretary  
Missouri State Anatomical Board  
Medical Center  
Department of Anatomy  
University of Missouri  
Columbia, Missouri

Dear Dr. Overholser:

Your recent request for an official opinion reads:

"May we have your opinion concerning the legality of the delivery of a dead human body from this state to a medical school in another state at the direction of the next of kin.

"The particular circumstances involved are as follows: A body in the custody of a funeral director in Missouri was transported to the Department of Anatomy of a medical school in another state with the information that the body had been released to that institution by the wife and stepson of the deceased. The Secretary of the particular Local Anatomical Board and the particular Registrar of Vital Statistics in Missouri ruled that the body could not be transported across the State line. This ruling was based on their interpretations of the Anatomical Law sections 3 and 4 and the Revised (1956) Probate Code: Section 261. The body in question was subsequently returned to Missouri.

"The chairman of the Department of Anatomy in the other state felt that this was not a case of an unclaimed body (and therefore under the jurisdiction of the Anatomical Board) being transported out of the State, but rather a case of the family directing the final disposition of the remains to a medical school in another state. He has requested a clarification of the interpretation of the laws involved.

M. D. Overholser, M. D.

"Certainly if this were the wish of the deceased as expressed in a will there would be no doubt as to the legality of the disposition of the body in another state, but our question is concerned with the right of the next of kin when direction for final disposition had not been expressed in a will of the deceased."

In regard to the above, we note your reference to Section 261 of the Missouri Probate Code and your statement that the ruling of the Anatomical Board was in part based upon this section. Section 261 of the Probate Code is now Section 474.310, V.A.M.S. Missouri Cumulative Supplement, 1955, and reads:

"Any person of sound mind, eighteen years of age or older may by last will devise his real or personal property and may also devise the whole or any part of his body to any college, university, licensed hospital or to the state anatomical board for use in the manner expressly provided by his will or otherwise."

Inasmuch as you state that the deceased in the instant case did not make a will, the above section could not possibly have any bearing upon the situation.

We next direct your attention to numbered paragraphs 1 and 2 of Section 194.120, RSMo 1949, which paragraphs read:

"1. That the heads of departments of anatomy, professors and associate professors of anatomy at the educational institutions of the state of Missouri which are now or may hereafter become incorporated, and in which said educational institutions human anatomy is investigated or taught to students in attendance at said educational institutions, shall be and hereby are constituted the Missouri State Anatomical Board, herein referred to in Sections 194.120 to 194.180 as 'the board.'

"2. The board shall have exclusive charge and control of the disposal and delivery of dead human bodies, as described in sections 194.120 to 194.180, to and among such educational institutions as under the provisions of said sections are entitled thereto."

We next direct your attention to numbered paragraph 1 of Section 194.150, which reads:

M. D. Overholser, M. D.

"1. Superintendents or wardens of penitentiaries, houses of correction and bridewells, hospitals, insane asylums and poor houses, and coroners, sheriffs, jailers, city and county undertakers, and all other state, county, town or city officers having the custody of the body of any deceased person required to be buried at public expense, shall be and hereby are required immediately to notify the secretary of the board, or the person duly designated by the board or by its secretary to receive such notice, whenever any such body or bodies come into his or their custody, charge or control, and shall, without fee or reward, deliver, within a period not to exceed thirty-six hours after death, except in cases within the jurisdiction of a coroner where retention for a longer time may be necessary, such body or bodies into the custody of the board and permit the board or its agent or agents to take and remove all such bodies, or otherwise dispose of them; provided, that each educational institution receiving a body from the board shall hold such body for at least thirty days, during which time any relative or friend of any such deceased person or persons shall have the right to take and receive the dead body from the possession of any person in whose charge or custody it may be found, for the purpose of interment, upon paying the expense of such interment."

(Underscoring ours.)

The above sets out the situations in which the State Anatomical Board has a right to receive dead human bodies. The first underlined portion limits the class of bodies to those "required to be buried at public expense." That is not the situation here since the body is not to be required to be buried at public expense, and thus, the instant case is automatically removed from the compass of Section 194.150, supra.

It would appear without further discussion that the body in the instant situation does not come within that class of bodies to which the State Anatomical Board has any claim whatsoever.

In view of the fact that we have held that in the instant situation the State Anatomical Board has no scintilla of right

M. D. Overholser, M. D.

to or interest in the particular dead body in question, it would appear that what right of disposition of the body the wife of the deceased had in regard to its disposition was not a matter of any official concern of the State Anatomical Board.

CONCLUSION

It is the opinion of this department that a dead human body which is not required to be buried at public expense does not come within the jurisdiction of the Missouri State Anatomical Board.

The foregoing opinion, which is hereby approved, was prepared by Assistant Attorney General Hugh P. Williamson.

Yours very truly,

John M. Dalton  
Attorney General

By

Robert R. Welborn  
Assistant Attorney General

HPW/bi