

STATE ANATOMICAL BOARD:
DECEASED BODIES, CONTROL OF:

Body required to be buried at
public expense is under control
and custody of Missouri State
Anatomical Board.

April 30, 1958



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

Dear Dr. Overholser:

We are in receipt of your request of February 27, 1958,
for an official opinion of this department, which reads, in
part, as follows:

"Due to the pressure of the undertakers
in certain counties the County Courts
are continuing to authorize allowances
for burials of bodies required to be
buried at public expense. This proce-
dure is in conflict with our State
Anatomical Law. If there is a Statute
permitting the County Courts to do this,
the Missouri State Anatomical Board
respectfully requests a ruling from you
as to which Statute has precedence."

We direct to your attention paragraph 1 of Section 194.150,
RSMo 1949, and Section 194.170, RSMo 1949, as follows:

Section 194.150.

"1. Superintendents or wardens of
penitentiaries, houses of correction
and bridewells, hospitals, insane
asylums and poorhouses, and coroners,
sheriffs, jailers, city and county
undertakers, and all other state,
county, town or city officers having

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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 expenses of such interment."

Section 194.170.

"Bodies required to be buried at public expense shall be under the exclusive custody and control of the board. It is hereby declared unlawful for any person or persons to hold any autopsy on any dead human body subject to the provisions of sections 194.120 to 194.180 without first having obtained the consent of the secretary of the board or his accredited agent. The consent of any person for an autopsy on his or her body shall not in any way prevent or affect the application of sections 194.120 to 194.180."

We also direct your attention to the case of State ex rel. Holladay v. Rinke, 121 SW 159 (1909), which asserts that a new statute is amendatory, and repeals an old one by implication only to the extent of the irreconcilable repugnancy between the two.

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It would appear that with the passage of Sections 194.150 and 194.170, supra, the legislature intended that all bodies to be buried at public expense are under the complete control and jurisdiction of the Missouri State Anatomical Board, and the only manner in which a body to be buried at public expense may be taken from the control and jurisdiction of the Anatomical Board is for arrangements to be made by a friend or relative to bury the body at his own personal expense.

Sections 194.170 and 194.150, supra, were enacted in 1939, subsequent to the enactment of Section 205.630, RSMo 1949, which states:

"The county court of the proper county shall allow such sum as it shall think reasonable, for the funeral expenses of any person who shall die within the county without means to pay such funeral expenses."

We believe that to the extent that this section is inconsistent with the above sections of the anatomical law Section 205.630 is repealed, applying the principles of *Holladay v. Rinke*. If no relative or friend of any deceased person is willing to pay the expense of interment of any dead body, then that body is a body required to be buried at public expense and is automatically under the exclusive custody and control of the Missouri State Anatomical Board.

CONCLUSION

If no relative or friend of any deceased person in the hands of the agents and institutions listed in Section 194.150, RSMo 1949, is willing to pay the expense of interment of that deceased person, then that body is a body required to be buried at public expense and is automatically under the exclusive custody and control of the Missouri State Anatomical Board.

Yours very truly,

JOHN M. DALTON
Attorney General

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