

PAUPERS:  
INDIGENTS:  
COUNTY COURTS:  
ANATOMICAL BOARD:

1. Sections 194.120 through 194.180, RSMo 1969, do not require that the State Anatomical Board accept the body of an indigent patient who dies in the State Chest Hospital.

2. When the State Anatomical Board is unable or unwilling to accept such body, the county court of the proper county is required to reimburse the State Chest Hospital for reasonable expenses incurred in the burial of such body. 3. The proper county within the meaning of Section 205.630, RSMo 1969, is that county in which the patient dies.

OPINION NO. 31

March 28, 1973

Herbert R. Domke, M.D., Director  
Missouri Division of Health  
Department of Public Health and Welfare  
Broadway State Office Building  
Jefferson City, Missouri 65101



Dear Dr. Domke:

This is in response to your request for a formal Attorney General's opinion regarding the following three questions:

1. In the event of the death of a patient receiving "free" treatment in the State Chest Hospital pursuant to Section 199.030, RSMo, can the State Anatomical Board refuse to accept the body after it has been properly notified under Section 194.150 that said hospital has custody of a pauper body?
2. Assuming that the State Anatomical Board properly can refuse to accept the body of a pauper who died in the State Chest Hospital, does said hospital under Section 205.630, RSMo, have authority to bill the county court for reimbursement of expenses incurred in the burial of such body?
3. Assuming that the State Chest Hospital is entitled to reimbursement for the expenses of such interment, which county is the "proper" county within the meaning of Section 205.630, RSMo, whose court is required to pay reasonable funeral expenses.

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With respect to your first question concerning whether the State Anatomical Board properly can refuse a pauper body, we must consider Section 194.150, RSMo 1969, which provides as follows:

"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 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.

"2. Each educational institution securing a dead body shall pay all necessary expense incurred in the delivery thereof, including cost of notice to the secretary of the board or his agent, which notice shall be by telegraph, when necessary to insure immediate notice. A correct record of all such bodies, including the name and date of death, shall be kept in a book provided for that purpose by the county clerk of the county in which such person died, and by the city health commissioner of the city of St. Louis, and such record shall be promptly

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furnished said officer by the person or persons reporting said bodies to the secretary of the board or his agent.

"3. Whenever any person fails to give the notice and deliver the body of a deceased person as required by this section, and by reason of such failure such body shall become unfit for anatomical purposes, and is so certified by the duly authorized officer or agent of the board, such body shall be buried at the expense of the person so failing to notify and deliver such body."

This section requires notification to the State Anatomical Board, provides for payment of the delivery expenses by the educational institution receiving a cadaver, or payment of burial expenses by persons whose failure properly to notify the State Anatomical Board renders the body unfit for anatomical use.

Section 194.120(1) designates what persons constitute the State Anatomical Board. Subsection 2 states:

"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."

Initially it would appear that the words "shall have exclusive charge and control" could be interpreted in the manner which would preclude the State Anatomical Board from refusing the body of a pauper. However, that "exclusive charge and control" is restricted to "disposal and delivery of dead human bodies" to and among the educational institutions entitled to receive them. It is our opinion that this language merely provides that the State Anatomical Board is the sole agency authorized to determine which educational institution is to receive a cadaver. A conclusion that Section 194.120 prohibits refusal of pauper bodies is not supported by the language of this section.

Section 194.170, however, provides as follows:

"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

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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."

Again, because of the phrase "exclusive custody and control," it would appear that under this section the State Anatomical Board cannot refuse a pauper body. However, the title and the remainder of the section indicate that the legislature meant only to require that the secretary of the State Anatomical Board consent to an autopsy on a pauper body over which the State Anatomical Board was in fact exercising control. This interpretation is in consonance with the apparent purpose of Sections 194.120 through 194.180; that is, to establish an orderly method by which bodies can be distributed on a proportional basis to educational institutions in which human anatomy is taught. In the event that the educational institutions are not in need of cadavers as they become available, it is our view that the State Anatomical Board can refuse to take custody of the body, even though the board has been notified properly under Section 194.150. This view is consistent with the view expressed in Opinion No. 33 dated March 23, 1966, directed to Paul McGhee, a copy of which is enclosed.

Regarding your second question dealing with the authority of the State Chest Hospital to bill the county court for burial expenses of paupers, we must examine Section 205.630, RSMo 1969, which provides as follows:

"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."

A practical interpretation of this section in conjunction with the provisions concerning disposition of pauper bodies through the State Anatomical Board indicates that the state, county, city or town officers, as well as the superintendents or wardens of the institutions and agencies designated in Section 194.150, must notify the State Anatomical Board whenever a pauper body comes into their custody, charge or control. Once notified, the board, whose responsibility it is to distribute those bodies, is entitled to determine that none are needed in the educational institutions and therefore refuse to accept the bodies so offered. Under those circumstances,

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of course, someone is responsible for the disposition of the body. The provisions of Section 205.630 clearly require that the county court pay the expenses of burial for those persons dying without means.

It is our view that when a free patient dies in the State Chest Hospital, the superintendent thereof must notify the State Anatomical Board pursuant to Section 194.150. If the State Anatomical Board is unable or unwilling to accept the body offered, the body can be interred in the hospital cemetery. Since the county court of the proper county is required to pay the funeral expenses of persons dying without means within the county, it would be appropriate for the State Chest Hospital to bill the proper county court for reimbursement of burial expenses.

In order to consider your third question, concerning which county is the proper county, it would be helpful to reexamine Section 205.630 which states as follows:

"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." (emphasis added)

By virtue of the phrase "funeral expenses of any person who shall die within the county," it would appear that the county court responsible to pay funeral expenses would be that county in which the indigent died. Applied to the factual context of your opinion request, that would mean that the burial expenses of all persons who die without means in the State Chest Hospital whose bodies are refused by the State Anatomical Board will be borne by the county court of Lawrence County.

#### CONCLUSION

It is the opinion of this office concerning indigent patients who die in the State Chest Hospital that:

1. Sections 194.120 through 194.180, RSMo 1969, do not require that the State Anatomical Board accept a pauper body.
2. When the State Anatomical Board is unable or unwilling to accept a pauper body, the county court of the proper county is required to reimburse the State Chest Hospital for reasonable expenses incurred in the burial of such body.
3. The proper county within the meaning of Section 205.630, RSMo 1969, is that county in which the patient dies.

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The foregoing opinion, which I hereby approve, was prepared by my assistant, Karen Harper.

Yours very truly,

A handwritten signature in black ink, appearing to read "John C. Danforth". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 33  
3-23-66, McGhee