

Senate Bill 469

By: Senators Marable of the 52nd, Mullis of the 53rd, Dean of the 31st, Starr of the 44th and Thompson of the 33rd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To regulate certain practices relating to identification, handling, and disposition of dead
2 bodies; to amend Title 31 of the Official Code of Georgia Annotated, relating to health, so
3 as to change certain provisions relating to furnishing copies of health records to patients or
4 providers; to prohibit and punish certain throwing away or abandonment of dead bodies; to
5 amend Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to funeral
6 directors and embalmers, so as to change certain provisions relating to definitions; to change
7 certain provisions relating to identification of bodies of deceased persons; to change certain
8 provisions relating to crematories; to change certain provisions relating to suspension or
9 revocation of licenses; to provide for an effective date; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by
14 inserting a new Code section to read as follows:

15 "31-21-44.2.

16 (a)(1) Any person who throws away or abandons any dead human body or portion of
17 such dead body shall commit the offense of abandonment of a dead body.

18 (2) It shall not be an offense under this subsection to make final disposition of a dead
19 human body or portion of such dead body under a death certificate issued under Chapter
20 10 of this title or the law of another jurisdiction by interment, entombment, inurnment,
21 scattering of cremated remains, burial at sea, or any means otherwise authorized by law;
22 nor shall it be an offense under this subsection for any law enforcement personnel,
23 medical or medical laboratory personnel, coroner or medical examiner, funeral director,
24 embalmer, crematory operator, or cemetery operator to perform those duties or acts
25 relating to possession or disposition of a dead human body or portion of such dead body
26 which are otherwise imposed or authorized by law or lawful contract.

1 (b) Any person who commits an offense of abandonment of a dead body as provided by
 2 subsection (a) of this Code section shall be guilty of a felony and shall be punished by
 3 imprisonment for not less than one nor more than three years."

4 SECTION 2.

5 Said title is further amended by striking Code Section 31-33-2, relating to furnishing copies
 6 of health records to patients or providers, and inserting in lieu thereof the following:

7 "31-33-2.

8 (a)(1) A provider having custody and control of any evaluation, diagnosis, prognosis,
 9 laboratory report, or biopsy slide in a patient's record shall retain such item for a period
 10 of not less than ten years from the date such item was created; provided, however, that
 11 the requirements of this paragraph shall not apply to an individual provider who has
 12 retired from or sold his or her professional practice if such provider has notified the
 13 patient of such retirement or sale and offered to provide such items in the patient's record
 14 or copies thereof to another provider of the patient's choice and, if the patient so requests,
 15 to the patient.

16 (2) Upon written request from the patient, a person authorized to have access to the
 17 patient's record under a health care power of attorney for such patient, or the executor or
 18 administrator of the patient's estate if the patient is deceased, the provider having custody
 19 and control of the patient's record shall furnish a complete and current copy of that
 20 record, in accordance with the provisions of this Code section.

21 (b) Any record requested under subsection (a) of this Code section shall be furnished
 22 within a reasonable period of time to the patient, any other provider designated by the
 23 patient, a person exercising a health care power of attorney for the patient, the executor or
 24 administrator of the patient's estate if the patient is deceased, or any other person
 25 designated by the patient.

26 (c) If the provider reasonably determines that disclosure of the record to the patient will
 27 be detrimental to the physical or mental health of the patient, the provider may refuse to
 28 furnish the record; however, upon such refusal, the patient's record shall, upon written
 29 request by the patient, be furnished to any other provider designated by the patient."

30 SECTION 3.

31 Chapter 18 of Title 43 of the Official Code of Georgia Annotated, relating to funeral
 32 directors and embalmers, is amended by striking paragraph (6) of Code Section 43-18-1,
 33 relating to definitions, and inserting in lieu thereof the following:

34 "(6) 'Crematory' means a any ~~place that is owned by a funeral director or funeral~~
 35 ~~establishment~~ where cremation is performed, and which is open to the public other than

1 a hospital, clinic, laboratory, or other facility authorized by the Department of Human
 2 Resources for such purposes."

3 SECTION 4.

4 Said chapter is further amended by striking Code Section 43-18-8, relating to identification
 5 of bodies of deceased persons, and inserting in lieu thereof the following:

6 "43-18-8.

7 (a)(1) The funeral director or person in charge of final disposition of a dead body shall,
 8 prior to the interment ~~or cremation~~ of such dead body, affix on the ankle or wrist of the
 9 deceased ~~or, if cremated, on the inside of the vessel containing the remains,~~ a tag of
 10 durable, noncorroding material permanently marked with the name of the deceased, the
 11 date of death, the social security number of the deceased, ~~and~~ the county and state of
 12 death, ~~and the serial number of any prosthesis removed from the dead body by the funeral~~
 13 establishment or crematory.

14 (2) No funeral director in charge of a crematory shall permit any dead body to be on the
 15 premises of the crematory without the dead body being identified as provided by this
 16 subsection, except when the body is placed in the retort; and the tag shall be removed
 17 from the body and kept in a regular location near the retort during cremation and
 18 thereafter placed atop the cremated remains on the inside of the vessel and any liner
 19 therein. The vessel containing cremated remains shall be plainly labeled on the outside
 20 so as to identify the deceased with the same information, excluding social security
 21 number, as is required to be on the tag inside the vessel and so as to identify the name of
 22 person or firm to which such remains are to be delivered or released.

23 (3) Tags and labels used for purposes of this subsection shall be in such standard forms
 24 as prescribed by the board. If the religious faith of the deceased prohibits ~~desecration of~~
 25 the body ~~such means of identification,~~ alternative means of identification of the body may
 26 be used.

27 (b) A crematory may deliver or release cremated remains to a funeral establishment or a
 28 legally authorized person. The funeral director in charge of a crematory shall provide to
 29 the funeral establishment or legally authorized person to whom cremated remains are
 30 delivered or released, at the time of such delivery or release:

31 (1) A written statement, on such standard form as prescribed by the board, signed and
 32 verified by such funeral director before a person authorized to administer oaths and
 33 attesting that the vessel contains substantially the remains of the deceased identified in
 34 accordance with subsection (a) of this Code section; and

35 (2) A written report of the results of a DNA (deoxyribonucleic acid) analysis which such
 36 funeral director shall have arranged to have been performed on a sample obtained from

1 the dead body prior to cremation to determine identification characteristics specific to that
 2 dead body, unless the requirement for such analysis and report has been expressly waived
 3 in writing by a legally authorized person.

4 (c) No funeral establishment shall accept or take delivery of any cremated remains from
 5 any crematory unless the vessel containing such remains is labeled as required by
 6 paragraph (2) of subsection (a) of this Code section, is accompanied by the affidavit
 7 required by paragraph (1) of subsection (b) of this Code section, and, if applicable, is
 8 accompanied by the report required by paragraph (2) of subsection (b) of this Code section;
 9 which vessel, affidavit, and report, if applicable, shall be provided by the funeral
 10 establishment to a legally authorized person upon delivery or release of the cremated
 11 remains."

12 SECTION 5.

13 Said chapter is further amended by striking Code Section 43-18-72, relating to crematories,
 14 and inserting in lieu thereof the following:

15 "43-18-72.

16 (a) It shall be unlawful for any person, firm, corporation, or association to operate a
 17 crematory without first obtaining a separate license for such purpose from the board in
 18 accordance with this article. The crematory must be at a specific address or location and
 19 must have the following minimum equipment, facilities, and personnel:

20 (1) A room with seating for a minimum of 30 people in which funeral services may be
 21 conducted;

22 (2) A display room containing an adequate supply of urns;

23 (3) Rolling stock consisting of at least one operable motor hearse either owned or leased
 24 by said firm with current Georgia registration;

25 (4) At least one operable retort for cremation;

26 (5) At least one operable processing station for grinding of cremated remains; and

27 ~~(5)~~(6) At least one church truck;

28 provided, however, that the provisions of paragraphs (1), (2), and (6) of this subsection
 29 shall not apply to crematories which provide cremation services only to other funeral
 30 establishments.

31 (b) The board may adopt and enforce such rules as may be reasonable and necessary to
 32 provide for the sanitary disposal of dead human bodies and prevent the spread of disease
 33 and to protect the health, safety, and welfare of the people of this state.

34 (c) Application for licensure of a crematory shall be made upon a form approved by the
 35 board and shall be accompanied by an application fee. No license shall be issued unless
 36 the facility meets all the requirements set forth by the board.

1 (d) The board ~~may~~ shall adopt rules requiring each crematory to submit periodic reports
 2 to the board in a standard form which include the names of persons cremated and the types
 3 of containers used.

4 (e) No more than one dead human body shall be placed in a retort at one time unless
 5 written permission has been received from the person possessing legal responsibility for
 6 the disposition of the dead human body.

7 (f) Nothing in this article shall require a funeral establishment for which a valid license to
 8 operate is in effect on the effective date of this subsection to have a separate license for a
 9 crematory until on and after the renewal date of such license to operate a funeral
 10 establishment which first occurs after the effective date of this subsection, but such
 11 establishment must comply with all the minimum equipment and facilities requirements;
 12 and all other statutes, rules, and regulations relating to crematories."

13 SECTION 6.

14 Said article is further amended by striking Code Section 43-18-75, relating to suspension or
 15 revocation of licenses, and inserting in lieu thereof the following:

16 "43-18-75.

17 (a) The board shall provide for inspections from time to time, but not less frequently than
 18 annually, of the premises of funeral establishments and crematories for purposes of
 19 ensuring compliance with the provisions of this article and any rules or regulations issued
 20 pursuant thereto, and every such firm shall submit to such inspections. The board is
 21 authorized to contract with any one or more county boards of health, and each county board
 22 of health is authorized to contract with the board, for the provision of inspection services
 23 on behalf of the board for purposes of this subsection.

24 (b) The license of any funeral establishment or crematory may be suspended, revoked, or
 25 put on probation, or fines may be imposed by the board if the evidence produced before it
 26 indicates that the establishment has violated any of the provisions of this article or any rules
 27 or regulations issued pursuant thereto. The board shall comply with Chapter 13 of Title 50,
 28 the 'Georgia Administrative Procedure Act,' in relation to such hearing; and the licensee
 29 shall have the right to appeal any decision of the board in accordance with Chapter 13 of
 30 Title 50, the 'Georgia Administrative Procedure Act.'"

31 SECTION 7.

32 This Act shall become effective upon its approval by the Governor or upon its becoming law
 33 without such approval.

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SECTION 8.

2 All laws and parts of laws in conflict with this Act are repealed.