

House Bill 1481 (AS PASSED HOUSE AND SENATE)

By: Representatives Snow of the 2nd, Smith of the 175th, Joyce of the 1st, Sims of the 167th, Williams of the 5th and others

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 provide for exception; to amend Chapter 18 of Title 43 of the Official Code of Georgia
6 Annotated, relating to funeral directors and embalmers, so as to change certain provisions
7 relating to definitions; to change certain provisions relating to identification of bodies of
8 deceased persons; to change certain provisions relating to crematories; to change certain
9 provisions relating to suspension or revocation of licenses; to provide effective dates; to
10 repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**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, hospital personnel, coroner or medical
24 examiner, funeral director, embalmer, crematory operator, or cemetery operator to
25 perform those duties or acts relating to possession or disposition of a dead human body
26 or portion of such dead body which are otherwise imposed or authorized by law or lawful

1 contract; nor shall use of a dead human body or portion of such dead body at or by an
 2 accredited medical school, dental school, college, or university for education, research,
 3 or advancement of medical or dental science or therapy be an offense under this
 4 subsection.

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

8 SECTION 2.

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

11 "31-33-2.

12 (a)(1)(A) A provider having custody and control of any evaluation, diagnosis,
 13 prognosis, laboratory report, or biopsy slide in a patient's record shall retain such item
 14 for a period of not less than ten years from the date such item was created.

15 (B) The requirements of subparagraph (A) of this paragraph shall not apply to:

16 (i) An individual provider who has retired from or sold his or her professional
 17 practice if such provider has notified the patient of such retirement or sale and offered
 18 to provide such items in the patient's record or copies thereof to another provider of
 19 the patient's choice and, if the patient so requests, to the patient; or

20 (ii) A hospital which is an institution as defined in subparagraph (B) of paragraph (1)
 21 of Code Section 31-7-1, which shall retain patient records in accordance with rules
 22 and regulations for hospitals as issued by the department pursuant to Code Section
 23 31-7-2.

24 (2) Upon written request from the patient or a person authorized to have access to the
 25 patient's record under a health care power of attorney for such patient, the provider
 26 having custody and control of the patient's record shall furnish a complete and current
 27 copy of that record, in accordance with the provisions of this Code section. If the patient
 28 is deceased, such request may be made by a person authorized immediately prior to the
 29 decedent's death to have access to the patient's record under a health care power of
 30 attorney for such patient; the executor, temporary executor, administrator, or temporary
 31 administrator for the decedent's estate; or any survivor, as defined by Code Sections
 32 51-4-2, 51-4-4, and 51-4-5.

33 (b) Any record requested under subsection (a) of this Code section shall be furnished
 34 within a reasonable period of time to the patient, any other provider designated by the
 35 patient, any person authorized by paragraph (2) of subsection (a) of this Code section to

1 request a patient's or deceased patient's medical records, or any other person designated
2 by the patient.

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

7 (d) A provider shall not be required to release records in accordance with this Code section
8 unless and until the requesting person has furnished the provider with a signed written
9 authorization indicating that he or she is authorized to have access to the patient's records
10 by paragraph (2) of subsection (a) of this Code section. Any provider shall be justified in
11 relying upon such written authorization.

12 (e) Any provider or person who in good faith releases copies of medical records in
13 accordance with this Code section shall not be found to have violated any criminal law or
14 to be civilly liable to the patient, the deceased patient's estate, or to any other person."

15 SECTION 3.

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

19 "(6) 'Crematory' means a any place ~~that is owned by a funeral director or funeral~~
20 ~~establishment~~ where cremation is performed, ~~and which is open to the public other than~~
21 a hospital, clinic, laboratory, or other facility authorized by the Department of Human
22 Resources for such purposes."

23 SECTION 4.

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

26 "43-18-8.

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

34 (2) No funeral director in charge of a crematory shall permit any dead body to be on the
35 premises of the crematory without the dead body being identified as provided by this

1 subsection, except when the body is placed in the retort; and the tag shall be removed
 2 from the body and kept in a regular location near the retort during cremation and
 3 thereafter placed atop the cremated remains on the inside of the vessel and any liner
 4 therein. The vessel containing cremated remains shall be plainly labeled on the outside
 5 so as to identify the deceased with the same information, excluding social security
 6 number, as is required to be on the tag inside the vessel and so as to identify the name of
 7 person or firm to which such remains are to be delivered or released.

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

12 (b) A crematory may deliver or release cremated remains to a funeral establishment or a
 13 legally authorized person. The funeral director in charge of a crematory shall provide to
 14 the funeral establishment or legally authorized person to whom cremated remains are
 15 delivered or released, at the time of such delivery or release, a written statement, on such
 16 standard form as prescribed by the board, signed and verified by such funeral director
 17 before a person authorized to administer oaths and attesting that the vessel contains
 18 substantially the remains of the deceased identified in accordance with subsection (a) of
 19 this Code section.

20 (c) No funeral establishment shall accept or take delivery of any cremated remains from
 21 any crematory unless the vessel containing such remains is labeled as required by
 22 paragraph (2) of subsection (a) of this Code section and is accompanied by the affidavit
 23 required by subsection (b) of this Code section, which vessel and affidavit shall be
 24 provided by the funeral establishment to a legally authorized person upon delivery or
 25 release of the cremated remains."

26 SECTION 5.

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

29 "43-18-72.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 SECTION 6.

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

30 "43-18-75.

31 (a) The board shall provide for inspections from time to time, but not less frequently than
32 annually, of the premises of funeral establishments and crematories for purposes of
33 ensuring compliance with the provisions of this article and any rules or regulations issued
34 pursuant thereto, and every such firm shall submit to such inspections. The board is
35 authorized to contract with any one or more county boards of health, and each county board

1 of health is authorized to contract with the board, for the provision of inspection services
2 on behalf of the board for purposes of this subsection.

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

10

SECTION 7.

11 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
12 law without such approval, except as otherwise provided by subsection (b) of this section.

13 (b) Section 4 of this Act shall become effective for purposes of promulgating rules and
14 regulations upon approval of this Act by the Governor or upon its becoming law without
15 such approval and shall become effective for all other purposes on July 1, 2002.

16

SECTION 8.

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