Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Interested Persons

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SUBJECT: Laws Concerning Funeral Establishments and Organ and Tissue Donations

Summary

This memorandum provides information related to the regulatory oversight of funeral establishments in Colorado and professionals working in these establishments; laws regulating organ and tissue donation; non-donation tissue banks; and recent Colorado legislation related to these topics.

Colorado Mortuary Science Code

The Colorado Mortuary Science Code requires mortuary science professionals to be licensed, effective January 1, 2027.[1] Mortuary science professionals include funeral directors, mortuary science practitioners, embalmers, cremationists, and natural reductionists. Information about licensing requirements may be found on the Department of Regulatory Agencies (DORA), Funeral and Mortuary Science Services webpage.

To be licensed, an individual must:

- submit an application and pay an application fee;
- obtain a fingerprint-based criminal history record check; and
- not have been subject to discipline in another state or convicted of a disqualifying crime.

In addition, professionals must have graduated from an accredited mortuary science school, passed a national board examination, and received workplace learning experience. Cremationists and natural reductionists must receive certification from specific organizations. The Consumer Guide to Death Care in Colorado, produced by DORA, provides additional information.

[1] Section 12-135-101, *et seq*, C.R.S., established by Senate Bill 24-173.

Professional Title Protection

Colorado law provides title protection for various professionals who work in funeral establishments. These individuals are required to offer their services through a registered establishment with a physical location, and only individuals who meet the criteria established in law may use the relevant job title. The following are descriptions of work performed by mortuary science professionals.

Funeral Directors and Mortuary Science Practitioners

Funeral directors and mortuary science practitioners receive compensation for:

- embalming, cremating, or naturally reducing human remains;
- selling services, planning or arranging the details of services, or making, negotiating, or completing financial arrangements for services concerning the final disposition of human remains;
- directing or supervising visitation or viewing of human remains, funerals, and memorial services;
- managing or supervising the operation of a funeral establishment; or
- preparing human remains for final disposition.

Embalmers

Embalmers receive compensation for embalming human remains or preparing human remains for embalming. The process includes disinfecting and preserving human remains with chemical substances in a specified manner.

Cremationists

Cremationists cremate human remains or prepare human remains for cremation. The cremation process includes reducing human remains to essential elements, processing the remains, and placing the processed remains in a cremated remains container.

Natural Reductionists

Natural reductionists reduce human remains or prepare human remains for natural reduction by converting human remains to soil.

Funeral Establishment Registration

In Colorado, funeral establishments must be registered with DORA. The businesses must follow a wide range of requirements, a few of which are included below.

- **Record keeping.** Funeral establishments are required to retain all documents and records concerning the final disposition of human remains for at least seven years after the disposition. They are also required to maintain a permanent record of all dispositions of human remains for at least seven years.[2]
- **Custody responsibility.** Funeral establishments are responsible for identifying and tracking human remains from the time they take custody of human remains until the remains are released. They must obtain permissions from and make every reasonable attempt to fulfill the wishes of the person with the right of final disposition. Human remains must be released properly and promptly to the correct individual.
- **Sanitary conditions.** A funeral establishment must not take custody of more unembalmed human remains that it has capacity to refrigerate, unless the establishment maintains custody of the unembalmed human remains for less than 24 hours. These establishments must maintain appropriate sanitary conditions, and human remains must be transported in a safe and sanitary way. It is also unlawful for funeral establishments to commingle human remains without proper authorization.[3]

Disciplinary Actions

Individuals found to be in violation of the mortuary science code may be guilty of a misdemeanor, punishable by a fine of up to $1,000, a jail sentence of up to 364 days, or both. Individuals may also be required to pay an additional civil penalty of up to $1,000. Funeral establishments may be fined up to $5,000 for each violation.[4]

DORA may also take administrative action against a licensed individual or funeral establishment that is found to be in violation of the law.[5] Records of license statuses, including disciplinary actions, are available using the DORA Discipline Roster Generator.

[2] Section 12-135-104, C.R.S.

[3] Section 12-135-105, C.R.S.

[4] Sections 12-135-108, 12-135-404, and 18-1.3-505, C.R.S.

[5] Section 12-135-507, C.R.S.

Sunset Review

The provisions of Colorado law related to the professional title protection within the industry and registration of funeral establishments underwent a sunset review in 2024. With the passage of House Bill 26-1258, this section of law is scheduled to undergo another sunset review in 2031.

Federal and Colorado Organ and Tissue Donation Laws

The process of donating human organs and tissue is regulated by both federal and state law.

National Organ Transplant Law

The National Organ Transplant Law is intended to address the nation's shortage of organ donations and improve the organ matching and placement process.

The law:

- places strict requirements on organizations that obtain organs meant for human transplant;
- provides for the establishment and operation of the Organ Procurement and Transplantation Network, which is designed to match and equitably distribute donated organs to individuals in need; and
- prohibits buying or selling human organs for human transplant.[6]

Colorado Revised Uniform Anatomical Gift Act

The Colorado Revised Uniform Anatomical Gift Act was drafted by the Uniform Law Commission and subsequently adopted by states, including Colorado. The law seeks to increase the supply of donated organs for human transplant. It applies to anatomical gifts, which includes the donation of all or part of a deceased human body for the purpose of transplantation, therapy, research, or education.

The law outlines who may donate a deceased human body and how the donation may be made. The law also specifies that these donations must be made to:

- a hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education;
- an individual designated by the person making the gift if the individual is the recipient of the body part; or
- an eye bank or tissue bank.

[6] 42 U.S.C. § 273, *et seq*.

Colorado prohibits the sale and purchase of human body parts for transplantation, in line with federal law. However, individuals may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a body part.[7]

Non-transplant Tissue Banks

Non-transplant tissue banks, also known as body brokers, are businesses that solicit, recover, collect, transport, store, and sell dead human bodies and body parts, often for profit. These businesses obtain dead human bodies that are donated for research, education, or training purposes and sell the bodies or body parts to institutions and individuals that use them for those purposes. Businesses in this industry engage in extensive advertising and often offer economic incentives, such as free cremation services, to donors and their families in return for body donations.

Several features of the Uniform Anatomical Gift Act allow non-transplant tissue banks to operate with very little regulatory oversight. Specifically, the act does not:

- define who qualifies as an "appropriate person" who may use a donated human body or body parts for research or education;
- define how a donated body may be used for "research or education";
- prohibit the sale of bodies and body parts that are not intended for transplantation;
- detail requirements for care of a body after it is donated; or
- specify that a body must be used by the entity to which it was gifted.

Recent Colorado Legislation Regarding Mortuary Science

The legislature has passed a number of bills to make changes to how mortuary science professionals are licensed and how mortuaries and crematories may operate, as shown in Table 1 below.

[7] Section 15-19-201, *et seq.*, C.R.S.

Table 1
Mortuary Science Legislation, 2018 through 2026

Bill	Description
House Bill 26-1258 **Changes to Practices Relating to Death**	Clarifies the mortuary science code for cremationists and natural reductionists, modifies related regulatory powers and duties of the division, and creates new misdemeanor violations. Additionally, the bill: ● requires funeral establishments to have a physical location; ● allows cremation or natural reduction to begin within 60 days after death, rather than 30 days under current law; ● modifies the amount of time after which remains may be disposed; ● creates a new license by endorsement; ● extends the regulation of these professions to 2031; and increases the criminal penalty for abusing a corpse from a class 6 felony to a class 5 felony.
Senate Bill 26-105 **County Executive Officer Disclosures**	Requires county coroners to disclose financial interests in death care businesses and to not participate in any official action that would impact that business. Additionally, in counties with populations over 300,000, the bill requires coroners to be a certified death investigator or certified forensic pathologist.
House Bill 25-1217 **Funeral Services and Consumer Protection**	Makes theft of money paid for funeral services by funeral directors both a deceptive trade practice and class 1 misdemeanor. The bill also specifies that preneed contracts for funeral services do not include transportation protection agreements, and delays the deadline to obtain work experience hours for provisional mortuary science practitioner licenses from January 1, 2026 to January 1, 2027.
Senate Bill 25-146 **Fingerprint-Based Criminal History Record Checks**	Allows regulators to require fingerprint-based criminal records checks to license, certify, or register cremationists, embalmers, funeral directors, and mortuary science practitioners.
Senate Bill 25-122 **Extending Organ & Tissue Donation Fund**	Extends the Emily Keyes–John W. Buckner Organ and Tissue Donation Awareness Fund indefinitely. The fund supports public education, transplantation science course training, and awareness efforts related to organ and tissue donation.
House Bill 24-1335 **Sunset Continue Mortuary Science Code Regulation**	Continues the regulation of persons related to the final disposition of deceased human bodies and implements recommendations in the 2023 DORA sunset report, including registration and inspection of funeral establishments and crematories.
Senate Bill 24-173 **Regulate Mortuary Science Occupations**	Requires an individual to obtain a license to practice as a mortuary science professional. In addition, creates a provisional license for practitioners that cannot meet licensing requirements. The act also provides administrative procedures for license renewal and establishes disciplinary procedures.

Bill	Description
House Bill 22-1228 **Sunset Continue Regulate Preneed Funeral Contracts**	Continues the regulation of preneed funeral contracts until September 1, 2029, as recommended by the 2021 DORA sunset report. The bill changes the licensure process to no longer require a bond or financial worth requirements for applicants, and requires the insurance commissioner to set net worth and bond requirements in rule. The commissioner may also investigate the books, records, and accounts of a seller without indication of noncompliance.
House Bill 22-1073 **Funeral Establishment and Crematory Inspection**	Grants DORA the authority to conduct unannounced inspections of registered funeral homes and crematories during business hours.
House Bill 21-1108 **Gender Identity Expression Anti-discrimination**	Adds gender identity and expression to the list of protected classes against whom it is unlawful to discriminate against in the provision of funeral services and crematory services.
Senate Bill 21-006 **Human Remains Natural Reduction Soil**	Amends the mortuary science code to add natural reduction of human remains. The act authorizes human remains to be converted to soil using a container that accelerates the process of biological decomposition. Natural reductionist businesses are prohibited from selling or offering to sell the soil, comingling the remains of several persons without consent, or using the soil to grow food for human consumption.
House Bill 20-1148 **Offenses Committed Against a Deceased Human Body**	Increases the criminal penalty for abusing a deceased human body from a class 2 misdemeanor to a class 6 felony. The bill also specifies that the statute of limitations for tampering with a deceased body and abuse of a corpse commences upon the discovery of the criminal act.
Senate Bill 18-234 **Human Remains Disposition Sale Businesses**	Prohibits a person from owning a direct or indirect interest in a funeral home or crematory while simultaneously owning a direct or indirect interest in a non-transplant tissue bank. The bill defines a non-transplant tissue bank as an entity that recovers, transports, distributes, screens, stores, and arranges for the storage and distribution of human remains for purposes other than human transplantation. The bill requires that non-transplant tissue banks: ● register with DORA by July 1, 2019; ● maintain records of each transaction for at least three years, including documentation of the deceased person's or their representative's consent to donate the remains; provide disclosure information to the donor or their representative of how the remains may be distributed and that the tissue bank will be compensated; and comply with standards of practice, such as handling remains in a safe and sanitary manner and maintaining paperwork and identification of all remains the tissue bank receives.

Prepared by Legislative Council Staff.