

DEAD HUMAN BODIES:
REMOVAL OF:
DIVISION OF HEALTH:
PERMIT:
DISINTERMENT:

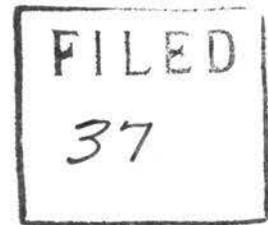
1. State Health Department or district health department or local board of health may issue permit authorizing a disinterred human body to be transported or removed to another cemetery for reinterment. 2. State Department of Health or any local board of health does not have authority to issue permits for disinterment of dead human body once interred.

October 28, 1960

COPY

OPINION NO. 37

Dr. H. M. Hardwicke
Acting Director
Division of Health
State Office Building
Jefferson City, Missouri



Dear Dr. Hardwicke:

In your letter of September 15, 1960, you request an opinion on two questions you submit, to wit:

"1. Our first question, therefore, is: Could the Division of Health through its district health officers issue permits for the removal of disinterred bodies in those areas where there is no local board of health or health department?

"2. The second question is: In the past, it has been presumed by funeral directors that a permit is needed to disinter a human body, the permit usually being obtained from a local board of health or health department or by inquiry being made of the Division of Health as to the procedure to be used in those areas which do not have a local health department. I would like to know if it is necessary that the local boards of health or health departments or the Division of Health concern themselves with routine disinterment permits, as differentiated from a permit for removal of a disinterred body."

You also refer to Section 194.030, V.A.M.S., apparently for our consideration and construction. This section is part of Chapter 194, V.A.M.S., which consists of eleven sections that were enacted in 1909 and found in Laws of Missouri, 1909, page 664. These sections are in substantially the same language as first enacted.

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In order to properly construe Section 194.030, supra, it is necessary to consider it with the other sections in the chapter and arrive at the intent and purpose of its enactment.

This chapter deals with the preparation and transportation of dead human bodies. It was enacted to protect the public health of the danger caused by transporting dead human bodies when death was caused by infections, communicable, contagious or dangerous diseases.

Section 194.010, V.A.M.S., provides as follows:

"A disinterred human body, dead of a disease or any cause, will be treated as infectious and dangerous to the public health, and shall not be offered to or accepted by any common carrier for transportation unless it is encased in an airtight metal or metal-lined burial case, coffin, casket or box that is closed and hermetically sealed."

Section 194.030, V.A.M.S., provides as follows:

"No disinterred human body shall be removed from one cemetery to another without a permit first having been obtained from the local board of health or health department of the district wherein said body shall have been interred."

The word "disinter" means to unbury; to take out of a grave; to exhume. Words and Phrases, Volume 12A.

When these sections are considered together with the other sections in the chapter, it seems clear that the intent and purpose of Section 194.030, supra, is to require a permit for the transportation of a dead human body after it has been exhumed or disinterred, which body is presumed to be contagious or infectious under Section 194.010, supra. It is the transportation of such a body that is dangerous to the public health. Section 194.030, supra, does not and was not intended to authorize the issuance of a permit to disinter. Said section deals only with the transportation of a body after it has been disinterred.

Regarding your question as to who should issue the permit in areas of the state which do not have a local board of health or health department, other statutory provisions concerning the State Board of Health would have to be considered. When Section 194.030, enacted in 1909, Section 6653, RSMo 1909, provided for a state board of health composed of seven members who were charged

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with the general supervision of the health of all the citizens of the state, the only authority it had was to recommend to the different municipalities in the state and to the county boards of health the adoption of rules and regulations for the protection and preservation of the health of the people. Other statutes provided for municipalities to establish local boards of health or health departments if they so desired. By express provisions of the statutes there was created in each county a county board of health, composed of the judges of the county court and a physician appointed by the court, which had jurisdiction over areas not included in the municipalities. Therefore, when Section 194.030, supra, was enacted, there was a county board of health in each county and there were also local boards of health in the cities and municipalities which may have established a health department. There was no provision for district boards of health or health departments.

Since 1909 the statute which created a county board of health has been repealed. At the present time a county health officer may be appointed by the county court. Section 192.260, V.A.M.S. However, this provision is not mandatory, so it is possible, and we are informed, many counties in the state do not have a health officer or local board of health. There is also statutory provision for municipalities to establish health departments if they so desire.

Section 192.020, V.A.M.S., provides as follows:

"It shall be the general duty and responsibility of the division of health to safeguard the health of the people in the state and all its subdivisions. It shall make a study of the causes and prevention of diseases. It shall designate those diseases which are infectious, contagious, communicable or dangerous in their nature and shall make and enforce adequate orders, findings, rules and regulation to prevent the spread of such diseases and to determine the prevalence of such diseases within the state. It shall have power and authority, with approval of the director of public health and welfare, to make such orders, findings, rules and regulations as will prevent the entrance of infectious, contagious, and communicable diseases into the state."

It should be observed that, under the above-quoted statute, the State Division of Health has been vested with the power and authority to make and enforce orders, findings, rules and regulations to prevent the spread of infectious, contagious, com-

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municable and dangerous diseases. This is a much broader power than that possessed by the State Board of Health in 1909.

It is our opinion that the State Division of Health, through its officers and designated employees, is authorized by Section 192.020, supra, to issue the permit required under Section 194.030.

Section 193.280, V.A.M.S., provides as follows:

"When a death or stillbirth occurs or a dead body is found the body shall not be disposed of or removed from the registration district until a permit has been issued by the local registrar."

This section governs the disposition of dead human bodies prior to burial. It does not apply or have anything to do with the disinterment of a human body once interred.

We are unable to find any statutory authority for the State Division of Health or local boards of health or health department or district health department to issue a permit authorizing the disinterment of human bodies.

CONCLUSION

In answer to your first question, it is our opinion that the State Division of Health, by its officers or designated employees, where there is no local board of health or health department, may issue the permit required under Section 194.030, V.A.M.S., to transport a disinterred human body from one cemetery to another.

In answer to your second question, it is our opinion that local boards of health or health departments or the State Division of Health need not concern themselves with the issuance of disinterment permits.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,

JOHN M. DALTON
Attorney General