



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 Homes, Crematories, and Organ and Tissue Donations

Summary

This memorandum provides information related to the regulatory oversight of funeral homes and crematories 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 12-135-501, *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 homes and crematories. These individuals are required to offer their services through a registered funeral home or crematory, 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 naturally reduce human remains or prepare human remains for natural reduction, by converting human remains to soil.



Funeral Home and Crematory Registration

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

- **Record keeping.** Funeral homes are required to retain all documents and records concerning the final disposition of human remains for at least seven years after the disposition. Crematories are required to maintain a permanent record of each cremation occurring at the facility for at least seven years.²
- **Responsibility.** Funeral homes and crematories are responsible for identifying and tracking human remains from the time they take custody of human remains until the remains are properly released. They must obtain proper permissions from and make every reasonable attempt to fulfill the wishes of the person with the right of final disposition. Human remains and cremated remains must be released properly and promptly to the correct individual.
- **General conditions.** Funeral homes and crematories must embalm, refrigerate, cremate, bury, or entomb human remains within 24 hours after taking custody of the remains. These establishments must maintain appropriate sanitary conditions, and human remains must be transported in a safe and sanitary way. Crematories must not cremate the human remains of more than one person at the same time or commingle the cremains of multiple human remains unless proper authorization has been received.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 homes and crematories may be fined \$100 to \$5,000 for each violation.⁴

DORA may also take administrative action against a licensed individual, funeral home, or crematory that is found to be in violation of the law.⁵ According to DORA, at least twelve funeral homes or crematories have had their registration revoked, suspended, or surrendered since January 1, 2023.

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 law related to the professional title protection within the industry and registration of funeral homes and crematories underwent a sunset review in 2024. This section of law is scheduled to undergo another sunset review prior to its repeal in 2029.

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.*



The law 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 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 “other appropriate person” who may use a donated human body or body parts for research or education;
- define use 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 passed a number of bills over the last few years to make changes to how mortuary science professionals are licensed and how mortuaries and crematories operate, as shown in Table 1 below.

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



Table 1
Mortuary Science Legislation, 2018 through 2024

Bill	Description
<u>House Bill 24-1335</u> 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 sunset report created by DORA. Recommendations include registration of funeral establishments and crematories and allowing for inspection of funeral establishments and crematories.
<u>Senate Bill 24-173</u> Regulate Mortuary Science Occupations	Requires an individual to obtain a license to practice as a funeral director, mortuary science practitioner, embalmer, cremationist, or natural reductionist (mortuary science professional). In addition, a provisional license is created for practitioners that cannot meet licensing requirements. The act also provides administrative procedures for license renewal and establishes disciplinary procedures.
<u>House Bill 22-1228</u> Sunset Continue Regulate Preneed Funeral Contracts	Continues the regulation of preneed funeral contracts until September 1, 2029, implementing the recommendations of the 2021 sunset report created by DORA. The bill changes the licensure process by no longer requiring a bond or financial worth requirements for applicants, and requires the insurance commissioner to create rules. In addition, with the passage of the law the commissioner may investigate the books, records, and accounts of a seller without any complaint or indication that the seller of contracts is in noncompliance.
<u>House Bill 22-1073</u> Funeral Establishment and Crematory Inspection	Grants DORA the authority to conduct unannounced inspections of registered funeral homes and crematories during business hours.
<u>House Bill 21-1108</u> 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.
<u>Senate Bill 21-006</u> 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, also known as "natural reduction." 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.
<u>House Bill 20-1148</u> 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.



Table 1, cont.
Mortuary Science Legislation, 2018 through 2024

Bill	Description
<u>Senate Bill 18-234</u> 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 transplantation into a living human being. 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