S T A T E O F N E W Y O R K

4838

2015-2016 Regular Sessions

I N S E N A T E

April 21, 2015

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to death, burial and removal permits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new section 4142-a to read as follows:

S 4142-A. DEATH CERTIFICATES; UNCLAIMED CADAVERS AND ANATOMICAL DONATIONS FOR EDUCATIONAL PURPOSES. AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES THAT ELECTS TO FILE DEATH CERTIFICATES, SHALL:

(A) OBTAIN THE PERSONAL AND STATISTICAL PARTICULARS REQUIRED FOR THE CERTIFICATE OF DEATH FROM A COMPETENT PERSON ACQUAINTED WITH THE FACTS AND QUALIFIED TO SUPPLY THEM AND ENTER THEM ON THE CERTIFICATE TOGETHER WITH THE NAME AND ADDRESS OF HIS OR HER INFORMANT;

(B) PRESENT THE CERTIFICATE PROMPTLY TO ATTENDING PHYSICIAN OR NURSE PRACTITIONER WHO SHALL FORTHWITH CERTIFY TO THE FACTS OF DEATH, PROVIDE THE MEDICAL INFORMATION REQUIRED BY THE CERTIFICATE AND SIGN THE MEDICAL CERTIFICATE OF DEATH, OR TO THE CORONER OR MEDICAL EXAMINER IN THOSE CASES WHERE SO REQUIRED BY THIS ARTICLE OR, WHEN A DEATH OCCURS IN A HOSPITAL, EXCEPT IN THOSE CASES WHERE CERTIFICATES ARE ISSUED BY CORONERS OR MEDICAL EXAMINERS, TO THE PERSON IN CHARGE OF SUCH HOSPITAL OR HIS OR HER DESIGNATED REPRESENTATIVE, WHO SHALL OBTAIN THE MEDICAL CERTIFICATE OF DEATH AS PRESCRIBED IN SECTION FORTY-ONE HUNDRED FORTY-ONE-A OF THIS TITLE;

(C) STATE THE FACTS REQUIRED ON THE CERTIFICATE OF DEATH RELATIVE TO THE DATE AND PLACE OF BURIAL, CREMATION OR REMOVAL, OVER HIS SIGNATURE AND WITH HIS OR HER ADDRESS; AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD01638-02-5

(D) PRIOR TO THE DISPOSITION OF THE REMAINS, FILE THE CERTIFICATE OF DEATH WITH THE REGISTRAR OF THE DISTRICT IN WHICH THE DEATH OCCURRED AS PROVIDED IN SECTION FORTY-ONE HUNDRED FORTY OF THIS TITLE.

S 2. Subdivision 2 of section 4140 of the public health law is amended to read as follows:

2. If the certificate of death is properly executed and complete, the registrar of the district in which the death occurred shall then issue a burial or removal permit to the funeral director [or], undertaker, OR AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES. In case the death occurred from a disease which is designated in the sanitary code as a communicable disease, no permit for the removal or other disposition of the body shall be issued by the registrar, except to a funeral director or undertaker licensed in accordance with the provisions of this chapter, under such conditions as may be prescribed in the sanitary code.

S 3. Subdivision 1 and paragraphs (b), (c) and (d) of subdivision 2 of section 4144 of the public health law, subdivision 1 as amended by chapter 617 of the laws of 1980, paragraph (b) of subdivision 2 as amended by chapter 352 of the laws of 2013 and paragraph (d) of subdivision 2 as amended by chapter 267 of the laws of 1967, are amended to read as follows:

1. The body of any person whose death occurs in this state, or which shall be found dead herein shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from the county in which the death occurred or the body was found, or be temporarily held pending further disposition more than seventy-two hours after death, unless a permit for burial, removal, or other disposition thereof shall have been properly issued by the registrar of vital statistics of the registration district in which the death occurred or the body was found, except that such a body may be removed to an adjacent county without first obtaining a permit therefor; provided, however, that AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES MAY APPLY FOR AND RECEIVE SUCH PERMIT OR a licensed funeral director may apply for and receive such permit on behalf of any person or institution authorized by article forty-two or forty-three of this chapter to receive unclaimed cadavers or anatomical gifts.

(b) Verbal permission to remove a body of a deceased person from the county in which death occurred or the body was found to a non-adjacent county within the state of New York, as provided in subdivision one of this section, shall be issued by the said registrar of vital statistics, upon request by telephone of a licensed funeral director [or], undertaker OR AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES who holds a certificate of death signed by the attending physician or nurse practitioner, or for deaths occurring on or after the implementation date under section forty-one hundred forty-eight of this title, such certificate of death signed by the attending physician or nurse practitioner is available electronically in accordance with section forty-one hundred forty-eight of this title, showing that the death resulted from natural causes and was not a result of accidental, suicidal, homicidal or other external causes.

(c) If it is not possible for the funeral director [or], undertaker OR AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCA-

TIONAL PURPOSES to communicate with the registrar by telephone, verbal permission to remove a body of a deceased person under the same conditions as those prescribed for the registrar may be issued by the commissioner or person authorized by him.

(d) The funeral director [or], undertaker OR AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES who shall make any removal before a permit is issued by the registrar, shall return the body to the registration district where death occurred, whenever the coroner, medical examiner, or district attorney shall request such return of the body for investigation or post-mortem examination.

S 4. Paragraphs (a) and (b) of subdivision 2 and subdivision 4 of section 4145 of the public health law, paragraph (a) of subdivision 2 as amended by chapter 543 of the laws of 2003, paragraph (b) of subdivision 2 as amended by chapter 198 of the laws of 2005, are amended to read as follows:

(a) The funeral director [or], undertaker OR AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES shall deliver the burial permit to the person in charge of the place of burial or other disposition before interring or otherwise disposing of the body or shall attach the removal or transit permit to the box containing the body, when shipped by any transportation company, which permit shall accompany the remains to its destination, where, if within this state, it shall be delivered to the person in charge of the place of burial or other disposition.

(b) Any person or other entity owning, operating, managing, or designated to receive the body of a deceased person at a place of burial, cremation, or other final disposition in this state, who receives the body of a deceased person, shall provide a receipt for the body to the funeral director, undertaker, AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES or registered resident who delivered such body. Each receipt shall (i) be endorsed by both such person and the funeral director, undertaker or registered resident, (ii) indicate the date the body was delivered, (iii) include the name of the funeral director, undertaker, AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES or registered resident delivering the body and the registration number of such funeral director, undertaker or registered resident, (iv) include the name of the registered funeral firm, the funeral director, undertaker, AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES or registered resident represents, (v) include the name of the deceased person as it appears on the burial, cremation, or transit permit, and (vi) include the name of the owner, operator, manager, or person in charge of the place of burial, cremation, or other final disposition who received the body of the deceased person. A copy of such receipt shall be retained by the owner, operator, manager, or person in charge of the place of burial, cremation, or other final disposition for a period of not less than four years, and shall be made available for inspection by the division of cemeteries during normal business hours. The original copy of every such receipt shall be retained by the licensed funeral firm for a period of not less than four years pursuant to the rules and regulations of the department governing the maintenance of records.

4. When burying or otherwise disposing of the body of a deceased person in a cemetery or burial place having no person in charge, the funeral director [or], undertaker OR AN INSTITUTION AUTHORIZED BY ARTICLE FORTY-TWO OR FORTY-THREE OF THIS CHAPTER TO RECEIVE UNCLAIMED CADAVERS OR ANATOMICAL GIFTS FOR EDUCATIONAL PURPOSES shall (a) sign the burial or removal permit, giving the date of burial; (b) write across the face of the permit the words "No person in charge;" and (c) file the burial or removal permit within three days with the registrar of the district in which the cemetery is located.

S 5. Section 4212 of the public health law is amended by adding a new subdivision 4 to read as follows:

4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSTITUTION AUTHORIZED BY SECTION FORTY-TWO HUNDRED ELEVEN OF THIS TITLE MAY FILE CERTIFICATES AND PERMITS PURSUANT TO SECTIONS FORTY-ONE HUNDRED FORTY-TWO, FORTY-ONE HUNDRED FORTY-FOUR AND FORTY-ONE HUNDRED FORTY-FIVE OF THIS CHAPTER FOR ANY UNCLAIMED CADAVERS RECEIVED FOR EDUCATIONAL PURPOSES. THE INSTITUTION SHALL ENSURE THE INDIVIDUALS FILING PERMITS OR TRANSPORTING CADAVERS HAVE THE NECESSARY EDUCATION AND TRAINING.

S 6. The public health law is amended by adding a new section 4302-a to read as follows:

S 4302-A. USING ANATOMICAL GIFTS FOR EDUCATION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ACCREDITED MEDICAL SCHOOL OR DENTAL SCHOOL, COLLEGE OR UNIVERSITY, BANK OR STORAGE FACILITY FOR EDUCATION, RESEARCH, ADVANCEMENT OF MEDICAL OR DENTAL SCIENCE, THERAPY OR TRANSPLANT AUTHORIZED TO RECEIVE ANATOMICAL DONATIONS MAY FILE CERTIFICATES AND PERMITS PURSUANT TO SECTIONS FORTY-ONE HUNDRED FORTY-TWO, FORTY-ONE HUNDRED FORTY-FOUR AND FORTY-ONE HUNDRED FORTY-FIVE OF THIS CHAPTER FOR DONATIONS MADE DIRECTLY TO SUCH INSTITUTION. THE INSTITUTION SHALL ENSURE THE INDIVIDUALS FILING PERMITS OR TRANSPORTING CADAVERS HAVE THE NECESSARY EDUCATION AND TRAINING.

S 7. This act shall take effect on the sixtieth day after it shall have become a law.