



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

March 4, 1982

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 82- 58

Carl O. Tompkins, M.D.
District Coroner
316 Oak
Newton, Kansas 67114

Re: Public Health -- Embalmers and Funeral Directors
-- Cremation and Embalming; Transportation of
Dead Human Bodies

Synopsis: Pursuant to K.A.R. 1981 Supp. 63-3-11(f), a dead human body need not be placed in a casket or wooden container in order to be cremated. If a casket is not used, the body shall be placed in a suitable combustible container. Kansas Administrative Regulations promulgated by the Kansas State Board of Embalming govern the transportation of embalmed or unembalmed bodies. Cited herein: K.A.R. 63-3-10, K.A.R. 1981 Supp. 63-3-11, K.A.R. 63-3-12, 63-3-14.

* * *

Dear Dr. Tompkins:

As district coroner for Harvey and McPherson counties, you have requested our opinion on laws and regulations governing cremation and embalming. Specifically, you have requested information regarding the necessity of placing a dead human body in a casket.

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or wooden container in order to be cremated. In addition, you question the necessity of embalming a body if the body is to be transported across one county line.

Kansas statutes governing embalming and funeral directing do not directly speak to the questions you have raised; however, the regulations promulgated by the Kansas State Board of Embalming are helpful in this regard. K.A.R. 1981 Supp. 63-3-11(f) indicates a casket or wooden container does not need to be used in order to allow cremation of a dead human body. Specifically, that subsection states: "If a casket has not been used in the preparation and transportation of a body that is to be cremated, the body shall be placed in a suitable combustible container which shall be permanently closed before being released to a receiving crematory." A suitable container is defined at K.A.R. 1981 Supp. 63-1-1(p) as "any receptacle or enclosure other than a casket which is of sufficient strength to be used to hold and transport human remains including, but not limited to, cardboard, pressed-wood or composition containers and canvas or opaque polyethylene pouches."

With respect to your question regarding the transportation of unembalmed bodies, K.A.R. 1981 Supp. 63-3-11(a) allows the transportation of unembalmed bodies other than those dead from an infectious or contagious disease. The body must have been released by the family or proper authorities, and it is to be transported by private conveyance within the State of Kansas under the following conditions:

- 1) A death certificate is to be filed according to the laws and regulations set forth by the Kansas State Department of Health and Environment; and
- 2) After the body has been released to the funeral director, the transportation is to be under his or her personal supervision.

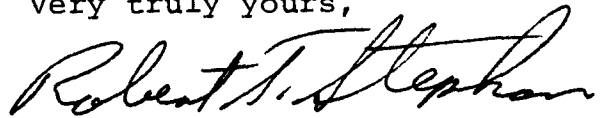
However, K.A.R. 1981 Supp. 63-3-11(c) provides that when a body is to be transported by a common carrier, the body must be embalmed and encased in a shipping case acceptable under the rules of the common carrier. K.A.R. 1981 Supp. 63-3-11(b) provides that bodies dead of infectious or contagious diseases shall not be removed from the city where the death occurred without being embalmed and cared for pursuant to the requirements of K.A.R. 63-3-10, which mandates precautionary measures to prevent the spread of communicable diseases.

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Finally, two additional regulations are pertinent to your request. K.A.R. 63-3-12 prohibits the removal of bodies badly mangled, burned, decomposed or partially decomposed that cannot be prepared pursuant to the requirements of K.A.R. 1981 Supp. 63-3-11. That prohibition applies to transportation by both private and common carriers, unless the carrier is first thoroughly disinfected by an approved disinfecting compound or preservative and the body is placed in a suitable container which shall be permanently closed. K.A.R. 63-3-14 states: "Shipping box or outer case may be dispensed with, if body is conveyed in hearse or private conveyance used for moving the dead. Bodies not in good condition shall not be reshipped or further transported until said body has been prepared according to the rules governing the preparation and transportation of dead human bodies in the State of Kansas."

In conclusion, pursuant to K.A.R. 1981 Supp. 63-3-11(f), a dead human body need not be placed in a casket or wooden container in order to be cremated. If a casket is not used, the body shall be placed in a suitable combustible container. Kansas Administrative Regulations governing the transportation of embalmed or unembalmed bodies are found at K.A.R. 1981 Supp. 63-3-11(a), (b) and (c) and K.A.R. 63-3-10, 63-3-12 and 63-3-14.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julia L. Young
Assistant Attorney General

RTS:WRA:JLY:phf