

House Bill 3345

Sponsored by Representative HOYLE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Transfers duties, functions and powers of Oregon Health Authority relating to nontransplant anatomical research recovery organizations to State Mortuary and Cemetery Board.

Applies statutes governing nontransplant anatomical research recovery organizations to hospitals and clinical laboratories.

Requires State Mortuary and Cemetery Board to inspect nonaccredited nontransplant anatomical research recovery organizations at least once every two years.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to nontransplant anatomical research recovery organizations; creating new provisions;
3 amending ORS 438.705, 438.710, 438.720, 438.994 and 692.375; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

TRANSFER

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8 **SECTION 1. The duties, functions and powers of the Oregon Health Authority relating**
9 **to nontransplant anatomical research recovery organizations under ORS 438.705 to 438.720**
10 **and 438.994 are imposed upon, transferred to and vested in the State Mortuary and Cemetery**
11 **Board.**

AMENDMENTS TO STATUTES

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15 **SECTION 2.** ORS 438.705 is amended to read:

16 438.705. As used in ORS 438.705 to 438.720 and 438.994:

17 (1) "Anatomical material" means the body of a dead human or a cell, group of cells or body part
18 taken from the body of a dead human.

19 (2) "Donor" has the meaning given that term in ORS 97.953.

20 (3)(a) "Nontransplant anatomical research recovery organization" means a person that engages
21 in the recovery or distribution of anatomical material from a donor for research or education pur-
22 poses other than transplanting the anatomical material or therapy.

23 (b) "Nontransplant anatomical research recovery organization" does not include:

24 [(A) A hospital or other health care facility, as those terms are defined in ORS 442.015;]

25 [(B)] (A) A public corporation, as defined in ORS 353.010; **or**

26 [(C)] (B) A public or private institution of higher education[; or].

27 [(D) A clinical laboratory, as defined in ORS 438.010, that is:]

28 [(i) Licensed under ORS 438.010 to 438.510; and]

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *[(ii) Owned or controlled by, or under common ownership with, a hospital described in subpara-*
 2 *graph (A) of this paragraph.]*

3 **SECTION 3.** ORS 438.710 is amended to read:

4 438.710. (1) A person may not act as a nontransplant anatomical research recovery organization
 5 unless the person is licensed as a nontransplant anatomical research recovery organization by the
 6 *[Oregon Health Authority]* **State Mortuary and Cemetery Board.**

7 (2) The *[authority]* **board** shall adopt rules establishing an application process and fees for ob-
 8 taining and renewing a nontransplant anatomical research recovery organization license. The fee
 9 for obtaining or renewing a license under this subsection may not exceed \$1,750.

10 (3) A license issued or renewed under this section expires two years after the date of issuance
 11 or renewal.

12 (4) The license required by this section is in addition to and not in lieu of any other license
 13 required by law.

14 (5) The *[authority]* **board** shall deposit fees collected under this section into the *[Oregon Health*
 15 *Authority Fund established in ORS 413.101]* **State Mortuary and Cemetery Board Account es-**
 16 **tablished under ORS 692.375.** Moneys deposited in the *[fund]* **account** under this subsection are
 17 continuously appropriated to the *[authority]* **board** for the purposes of carrying out the duties,
 18 functions and powers of the *[authority]* **board** under ORS 438.705 to 438.720 and 438.994.

19 **SECTION 4.** ORS 438.720 is amended to read:

20 438.720. (1) The *[Oregon Health Authority may]* **State Mortuary and Cemetery Board shall:**

21 (a) Adopt rules to implement ORS 438.705 to 438.720 and 438.994;

22 (b) *[Inspect]* **Conduct biennial inspections of** the premises and records of *[a]* **each**
 23 **nontransplant anatomical research recovery organization licensed by the board; and**

24 (c) **Conduct other inspections of the premises and records of a nontransplant anatomical**
 25 **research recovery organization** as is reasonably necessary to determine compliance with ORS
 26 438.710 and 438.715; *and*].

27 *[(c)]* **(2)** In lieu of conducting inspections *[authorized under paragraph (b) of this subsection,]*
 28 **required under subsection (1) of this section, the board may** accept accreditation from an ac-
 29 crediting body approved by the *[authority]* **board.**

30 *[(2)]* **(3)** To be approved under subsection *[(1)(c)]* **(2)** of this section, an accrediting body must:

31 (a) Require a nontransplant anatomical research recovery organization to document processes
 32 related to the recovery, handling and distribution of anatomical material and submit to the accred-
 33 iting body that documentation.

34 (b) Require a nontransplant anatomical research recovery organization to keep and maintain all
 35 records related to the recovery or distribution of anatomical material for at least 10 years.

36 (c) Conduct, or have a designee conduct, regular on-site compliance inspections of a
 37 nontransplant anatomical research recovery organization's records, processes and materials relating
 38 to:

39 (A) Donor intake;

40 (B) Acquisition, preparation, labeling, packaging, storage and distribution of anatomical mate-
 41 rial; and

42 (C) Any inspection of a facility owned or operated by the nontransplant anatomical research
 43 recovery organization.

44 **SECTION 5.** ORS 438.994 is amended to read:

45 438.994. (1) In accordance with ORS chapter 183, the *[Oregon Health Authority]* **State Mortuary**

1 **and Cemetery Board** may:

2 (a) Impose a civil penalty in an amount not to exceed \$1,000 for each violation of ORS 438.710
 3 or 438.715; and

4 (b) Suspend or revoke a license issued or renewed under ORS 438.710 for a violation of ORS
 5 438.715.

6 (2) The [authority] **board** shall deposit penalties collected under this section into the [Oregon
 7 Health Authority Fund established in ORS 413.101] **State Mortuary and Cemetery Board Account**
 8 **established under ORS 692.375**. Moneys deposited in the [fund] **account** under this subsection are
 9 continuously appropriated to the [authority] **board** for the purposes of carrying out the duties,
 10 functions and powers of the [authority] **board** under ORS 438.705 to 438.720 and 438.994.

11 **SECTION 6.** ORS 692.375 is amended to read:

12 692.375. (1) The State Mortuary and Cemetery Board Account is established in the State
 13 Treasury, separate and distinct from the General Fund. All moneys received by the State Mortuary
 14 and Cemetery Board under this chapter **and ORS 438.710 and 438.994** shall be [paid into] **deposited**
 15 **in** the account and are [appropriated continuously to be used only for the administration and
 16 enforcement of this chapter, for the administration and enforcement of ORS 97.931] **continuously ap-**
 17 **propriated to the board for the purposes of:**

18 (a) **Administering and enforcing this chapter and ORS 97.931, 438.705 to 438.720 and**
 19 **438.994** [and for the purpose of education of]; and

20 (b) **Educating** funeral service practitioners, embalmers and death care consultants.

21 (2) Any interest or other income from moneys in the account [shall be] **is** credited to the ac-
 22 count.

23
 24 **RECORDS, PROPERTY, EMPLOYEES**

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 26 **SECTION 7.** (1) The Director of the Oregon Health Authority shall:

27 (a) **Deliver to the State Mortuary and Cemetery Board all records and property within**
 28 **the jurisdiction of the director that relate to the duties, functions and powers transferred**
 29 **by section 1 of this 2015 Act; and**

30 (b) **Transfer to the State Mortuary and Cemetery Board those employees engaged pri-**
 31 **marily in the exercise of the duties, functions and powers transferred by section 1 of this**
 32 **2015 Act.**

33 (2) **The State Mortuary and Cemetery Board shall take possession of the records and**
 34 **property, and shall take charge of the employees and employ them in the exercise of the**
 35 **duties, functions and powers transferred by section 1 of this 2015 Act, without reduction of**
 36 **compensation but subject to change or termination of employment or compensation as pro-**
 37 **vided by law.**

38 (3) **The Governor shall resolve any dispute between the Oregon Health Authority and the**
 39 **State Mortuary and Cemetery Board relating to transfers of records, property and employees**
 40 **under this section, and the Governor's decision is final.**

41
 42 **UNEXPENDED REVENUES**

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 44 **SECTION 8.** (1) **The unexpended balances of amounts authorized to be expended by the**
 45 **Oregon Health Authority for the biennium beginning July 1, 2015, from revenues dedicated,**

1 continuously appropriated, appropriated or otherwise made available for the purpose of ad-
 2 ministering and enforcing the duties, functions and powers transferred by section 1 of this
 3 2015 Act are transferred to and are available for expenditure by the State Mortuary and
 4 Cemetery Board for the biennium beginning July 1, 2015, for the purpose of administering
 5 and enforcing the duties, functions and powers transferred by section 1 of this 2015 Act.

6 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
 7 expenditures by the Oregon Health Authority remain applicable to expenditures by the State
 8 Mortuary and Cemetery Board under this section.

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 10 **ACTION, PROCEEDING, PROSECUTION**

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 12 **SECTION 9.** The transfer of duties, functions and powers to the State Mortuary and
 13 Cemetery Board by section 1 of this 2015 Act does not affect any action, proceeding or
 14 prosecution involving or with respect to such duties, functions and powers begun before and
 15 pending at the time of the transfer, except that the State Mortuary and Cemetery Board is
 16 substituted for the Oregon Health Authority in the action, proceeding or prosecution.

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 18 **LIABILITY, DUTY, OBLIGATION**

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 20 **SECTION 10.** (1) Nothing in sections 1 and 7 to 12 of this 2015 Act relieves a person of a
 21 liability, duty or obligation accruing under or with respect to the duties, functions and pow-
 22 ers transferred by section 1 of this 2015 Act. The State Mortuary and Cemetery Board may
 23 undertake the collection or enforcement of any such liability, duty or obligation.

24 (2) The rights and obligations of the Oregon Health Authority legally incurred under
 25 contracts, leases and business transactions executed, entered into or begun before the op-
 26 erative date of section 1 of this 2015 Act accruing under or with respect to the duties, func-
 27 tions and powers transferred by section 1 of this 2015 Act are transferred to the State
 28 Mortuary and Cemetery Board. For the purpose of succession to these rights and obligations,
 29 the State Mortuary and Cemetery Board is a continuation of the Oregon Health Authority
 30 and not a new authority.

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 32 **RULES**

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 34 **SECTION 11.** Notwithstanding the transfer of duties, functions and powers by section 1
 35 of this 2015 Act, the rules of the Oregon Health Authority with respect to such duties,
 36 functions or powers that are in effect on the operative date of section 1 of this 2015 Act
 37 continue in effect until superseded or repealed by rules of the State Mortuary and Cemetery
 38 Board. References in such rules of the Oregon Health Authority to the Oregon Health Au-
 39 thority or an officer or employee of the Oregon Health Authority are considered to be ref-
 40 erences to the State Mortuary and Cemetery Board or an officer or employee of the State
 41 Mortuary and Cemetery Board.

42 **SECTION 12.** Whenever, in any uncodified law or resolution of the Legislative Assembly
 43 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
 44 the context of the duties, functions and powers transferred by section 1 of this 2015 Act,
 45 reference is made to the Oregon Health Authority, or an officer or employee of the Oregon

1 Health Authority, whose duties, functions or powers are transferred by section 1 of this 2015
2 Act, the reference is considered to be a reference to the State Mortuary and Cemetery Board
3 or an officer or employee of the State Mortuary and Cemetery Board who by this 2015 Act
4 is charged with carrying out such duties, functions and powers.

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6 **OPERATIVE DATE**

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8 **SECTION 13.** (1) Sections 1 and 7 to 12 of this 2015 Act and the amendments to ORS
9 438.705, 438.710, 438.720, 438.994 and 692.375 by sections 2 to 6 of this 2015 Act become opera-
10 tive on January 1, 2016.

11 (2) The Oregon Health Authority and the State Mortuary and Cemetery Board may take
12 any action before the operative date specified in subsection (1) of this section that is neces-
13 sary to enable the authority and the board to exercise, on and after the operative date
14 specified in subsection (1) of this section, all the duties, powers and functions conferred on
15 the authority and the board by sections 1 and 7 to 12 of this 2015 Act and the amendments
16 to ORS 438.705, 438.710, 438.720, 438.994 and 692.375 by sections 2 to 6 of this 2015 Act.

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18 **UNIT CAPTIONS**

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20 **SECTION 14.** The unit captions used in this 2015 Act are provided only for the conven-
21 ience of the reader and do not become part of the statutory law of this state or express any
22 legislative intent in the enactment of this 2015 Act.

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24 **EMERGENCY CLAUSE**

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26 **SECTION 15.** This 2015 Act being necessary for the immediate preservation of the public
27 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
28 on its passage.

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