



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

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May 12, 1970

Mr. Joe A. Myers, President
State Board of Morticians
Page Building
610 Brazos Street
Austin, Texas

Opinion No. M- 626

Re: The extent of authority
of the State Board of
Morticians to carry on
investigations under article
4582b, Vernon's Civil
Statutes.

Dear Mr. Myers:

Your request to this office for an opinion on the
above subject contained two questions as follows:

"1. Does the State Board of Morticians
have the legal right, under the enforcement
provisions of Article 4582b to request dis-
interment of a dead human body by the Medical
Examiner of Harris County?

"2. Does the County Medical Examiner have
authority under Article 49.25, C.C.P., to disinter
a human body for purposes of identification of
the torso, even though his records indicate an
autopsy and/or inquest was held on the body of
the decedent prior to burial?"

In answer to your questions, you are advised as to the
following pertinent statutory laws which apply under your
factual situation.

Article 4582b in Section 3H, Vernon's Civil Statutes,
says in pertinent part as follows:

"The State Board of Morticians is hereby
authorized and empowered and it shall be its duty
to conduct hearings to revoke, suspend, or place on
probation any licensed funeral director and/or
embalmer, or apprentice, and may refuse to admit
persons to examination for any of the following
reasons: ...

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"2. Conviction of a crime of the grade of a felony or of a misdemeanor involving moral turpitude; ...

"12. Willfully making any false statement on a certificate of death; ..."

In Section 4D2(b) of Article 4582b, the Board is required to cause an investigation to be made whenever a complaint is filed with or by the Board.

Pursuant to the obligations imposed upon the Board by the statute, the Board is authorized to request the County Medical Examiner to order an exhumation for good cause shown.

If the results of the Board's investigation show possible violations of the penal laws of the State in regard to dead human bodies, a factual report should be made to the District Attorney and to the County Medical examiner who will determine if an inquest should be held and whether an autopsy should be performed.

Section 6 of Article 49.25 imposes a duty upon any medical examiner, or his duly authorized deputy, to hold inquest with or without a jury within his county, among other things,

"3. When the body of a human being is found, and the circumstances of his death are unknown;

"4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means. ..."

Section 7 of Article 49.25 makes it the duty of any official or private citizen who shall become aware of a death under any of the circumstances set out in Section 6 therein to immediately report such death to the office of the medical examiner or to the city or county police department.

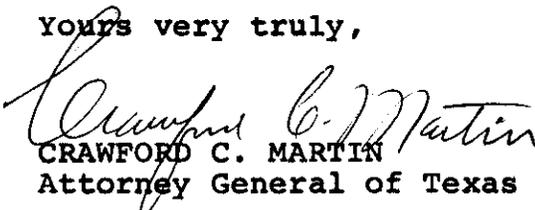
Section 10 of Article 49.25 provides that when a body upon which an inquest ought to have been held has been interred, the medical examiner, may cause it to be disinterred for the purpose of holding such inquest.

S U M M A R Y

Under Article 4582b, Vernon's Civil Statutes, the State Board of Morticians has authority to cause investigations of all alleged violations which may constitute grounds for prescribed actions by the Board against its licensees. If probable cause exists from such an investigation involving a dead human body, the Board has a duty to report such findings to the County Medical Examiner, together with a request for exhumation.

Under Article 49.25, C.C.P., the County Medical Examiner may cause a human body to be disinterred if his findings of fact show a need for an inquest to be held.

Yours very truly,


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Attorney General of Texas

Prepared by Sam L. Jones
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APPROVED:
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