

SB234\_L.002

## SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.SB18-234 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 12-54-104, add  
4 (1)(p) as follows:

5 12-54-104. **Unlawful acts.** (1) It is unlawful:

6 (p) FOR A PERSON OWNING AN INDIRECT INTEREST WITH MORE  
7 THAN TEN-PERCENT OWNERSHIP IN A FUNERAL ESTABLISHMENT OR FOR A  
8 PERSON OWNING A DIRECT INTEREST IN A FUNERAL ESTABLISHMENT TO  
9 OWN AN INDIRECT INTEREST WITH MORE THAN TEN-PERCENT OWNERSHIP  
10 IN A NONTRANSPLANT TISSUE BANK, AS DEFINED IN SECTION 12-54.5-101  
11 (5), OR TO OWN A DIRECT INTEREST IN A NONTRANSPLANT TISSUE BANK.

12 SECTION 2. In Colorado Revised Statutes, 12-54-301, add (3)  
13 as follows:

14 12-54-301. **Unlawful acts.** (3) IT IS UNLAWFUL FOR A PERSON  
15 OWNING AN INDIRECT INTEREST WITH MORE THAN TEN-PERCENT  
16 OWNERSHIP IN A CREMATORY OR FOR A PERSON OWNING A DIRECT  
17 INTEREST IN A CREMATORY TO OWN AN INDIRECT INTEREST WITH MORE  
18 THAN TEN-PERCENT OWNERSHIP IN A NONTRANSPLANT TISSUE BANK, AS  
19 DEFINED IN SECTION 12-54.5-101 (5), OR TO OWN A DIRECT INTEREST IN A  
20 NONTRANSPLANT TISSUE BANK.

21 SECTION 3. In Colorado Revised Statutes, add article 54.5 to  
22 title 12 as follows:

23 ARTICLE 54.5

24 Nontransplant Tissue Banks

25 12-54.5-101. **Definitions.** AS USED IN THIS ARTICLE 54.5, UNLESS  
26 THE CONTEXT OTHERWISE REQUIRES:

27 (1) "BODY PART" MEANS A PORTION OF THE HUMAN BODY. THE  
28 TERM DOES NOT INCLUDE BLOOD UNLESS THE BLOOD IS DONATED FOR THE  
29 PURPOSE OF RESEARCH OR EDUCATION.

30 (2) "DESIGNEE" MEANS AN INDIVIDUAL DESIGNATED BY A  
31 NONTRANSPLANT TISSUE BANK REGISTERED IN ACCORDANCE WITH  
32 SECTION 12-54.5-102.

33 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE  
34 DIRECTOR'S DESIGNEE.

35 (4) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND  
36 OCCUPATIONS CREATED IN SECTION 24-34-102.

37 (5) (a) "NONTRANSPLANT TISSUE BANK" MEANS A PERSON THAT,  
38 FOR ANY PURPOSE OTHER THAN TRANSPLANTING A BODY PART, RECOVERS,  
39 TRANSPORTS, DISTRIBUTES, SCREENS, STORES, AND ARRANGES FOR THE

1 STORAGE AND DISTRIBUTION OF A BODY PART.

2 (b) "NONTRANSPLANT TISSUE BANK" DOES NOT INCLUDE:

3 (I) AN EYE BANK, AN ORGAN PROCUREMENT ORGANIZATION, OR A  
4 TISSUE BANK, AS THOSE TERMS ARE DEFINED IN SECTION 15-19-202 (10),  
5 (16), AND (31), RESPECTIVELY;

6 (II) A FUNERAL ESTABLISHMENT REGISTERED IN ACCORDANCE  
7 WITH SECTION 12-54-110; OR

8 (III) A CREMATORY REGISTERED IN ACCORDANCE WITH SECTION  
9 12-54-303.

10 **12-54.5-102. Registration required - repeal.** (1) (a) BY JULY 1,  
11 2019, EACH NONTRANSPLANT TISSUE BANK SHALL REGISTER WITH THE  
12 DIRECTOR IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR. THE  
13 REGISTRATION MUST INCLUDE:

14 (I) THE SPECIFIC ADDRESS OF THE NONTRANSPLANT TISSUE BANK;

15 (II) THE FULL NAME AND ADDRESS OF THE DESIGNEE APPOINTED  
16 IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION;

17 (III) THE DATE THE NONTRANSPLANT TISSUE BANK BEGAN DOING  
18 BUSINESS;

19 (IV) THE CATEGORY OF BODY PARTS AND THE TYPE OF BODY PART  
20 SERVICES PROVIDED; AND

21 (V) A DESCRIPTION OF THE NONTRANSPLANT TISSUE BANK'S  
22 PREMISES AND EQUIPMENT.

23 (b) EACH NONTRANSPLANT TISSUE BANK REGISTRATION IS SUBJECT  
24 TO RENEWAL PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR  
25 IN ACCORDANCE WITH SECTION 24-34-102 (8) AND IN THE FORM AND  
26 MANNER DETERMINED BY THE DIRECTOR.

27 (c) IN ACCORDANCE WITH SECTION 24-34-105, THE DIRECTOR MAY  
28 ADJUST THE REGISTRATION FEE SET UNDER SUBSECTION (3) OF THIS  
29 SECTION AND ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR  
30 REINSTATEMENT. IF A NONTRANSPLANT TISSUE BANK FAILS TO RENEW THE  
31 REGISTRATION IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE  
32 DIRECTOR, THE REGISTRATION EXPIRES.

33 (2) (a) EACH NONTRANSPLANT TISSUE BANK SHALL APPOINT AN  
34 INDIVIDUAL AS THE DESIGNEE OF THE NONTRANSPLANT TISSUE BANK. A  
35 DESIGNEE MUST:

36 (I) BE AT LEAST EIGHTEEN YEARS OF AGE;

37 (II) HAVE AT LEAST TWO YEARS OF EXPERIENCE WORKING FOR A  
38 NONTRANSPLANT TISSUE BANK;

39 (III) BE EMPLOYED BY THE REGISTERED NONTRANSPLANT TISSUE  
40 BANK THAT THE DESIGNEE REPRESENTS;

41 (IV) HAVE THE AUTHORITY WITHIN THE NONTRANSPLANT TISSUE  
42 BANK'S ORGANIZATION TO REQUIRE THAT PERSONNEL COMPLY WITH THIS  
43 ARTICLE 54.5; AND

1 (V) NOT BE DESIGNATED FOR MORE THAN ONE NONTRANSPLANT  
2 TISSUE BANK UNLESS EACH ADDITIONAL NONTRANSPLANT TISSUE BANK IS  
3 OPERATED UNDER COMMON OWNERSHIP AND MANAGEMENT AND UNLESS  
4 EACH ADDITIONAL NONTRANSPLANT TISSUE BANK IS SIXTY MILES OR LESS  
5 FROM ALL OTHER NONTRANSPLANT TISSUE BANKS HELD UNDER THE SAME  
6 COMMON OWNERSHIP.

7 (b) IF, AFTER INITIAL REGISTRATION, THE NONTRANSPLANT TISSUE  
8 BANK APPOINTS A NEW DESIGNEE IN ACCORDANCE WITH SUBSECTION  
9 (2)(a) OF THIS SECTION, THE NONTRANSPLANT TISSUE BANK SHALL NOTIFY  
10 THE DIRECTOR WITHIN THIRTY DAYS AFTER APPOINTING THE DESIGNEE.

11 (3) TO REGISTER, A PERSON MUST PAY THE FEE SET BY THE  
12 DIRECTOR. THE DIRECTOR SHALL SET THE REGISTRATION FEE TO OFFSET  
13 THE DIVISION'S DIRECT AND INDIRECT COSTS OF IMPLEMENTING THIS  
14 ARTICLE 54.5. THE DIRECTOR SHALL TRANSMIT THE FEE TO THE STATE  
15 TREASURER, WHO SHALL CREDIT IT TO THE DIVISION OF PROFESSIONS AND  
16 OCCUPATIONS CASH FUND CREATED IN SECTION 24-34-105.

17 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.  
18 BEFORE ITS REPEAL, THIS SECTION IS SCHEDULED FOR REVIEW IN  
19 ACCORDANCE WITH SECTION 24-34-104.

20 **12-54.5-103. Records and receipts.** (1) A NONTRANSPLANT  
21 TISSUE BANK SHALL FURNISH TO A PERSON WHO DELIVERS A BODY PART TO  
22 THE NONTRANSPLANT TISSUE BANK A RECEIPT, WHICH MUST BE SIGNED BY  
23 BOTH THE NONTRANSPLANT TISSUE BANK AND THE PERSON WHO DELIVERS  
24 THE BODY PART. THE NONTRANSPLANT TISSUE BANK SHALL RETAIN A  
25 COPY OF THE RECEIPT IN ITS RECORDS IN ACCORDANCE WITH SUBSECTION  
26 (2) OF THIS SECTION. THE RECEIPT MUST INCLUDE THE FOLLOWING:

- 27 (a) THE DATE AND TIME OF THE DELIVERY;
- 28 (b) THE NAME OF THE PERSON WHO DELIVERED THE BODY PART;
- 29 (c) THE NAME OF THE DECEDENT;
- 30 (d) THE NAME OF ANY BUSINESSES WITH WHICH THE PERSON  
31 DELIVERING THE BODY PART IS AFFILIATED; AND
- 32 (e) THE NAME OF THE PERSON WHO RECEIVED THE BODY PART ON  
33 BEHALF OF THE NONTRANSPLANT TISSUE BANK.

34 (2) A NONTRANSPLANT TISSUE BANK SHALL MAINTAIN FOR AT  
35 LEAST THREE YEARS AT ITS REGISTERED LOCATION THE FOLLOWING  
36 RECORDS:

- 37 (a) THE DONOR'S FULL NAME AND ADDRESS;
- 38 (b) THE DATE OF DONATION;
- 39 (c) DOCUMENTATION OF THE DECEDENT'S INFORMED CONSENT OR  
40 THE CONSENT OF THE PERSON AUTHORIZED BY LAW TO CONSENT ON  
41 BEHALF OF THE DONOR TO THE DONATION;
- 42 (d) A DESCRIPTION AND THE QUANTITY OF EACH BODY PART TO BE  
43 DONATED FOR SCIENTIFIC OR EDUCATIONAL PURPOSES;

1 (e) DECEDENT MEDICAL HISTORY, INCLUDING ANY OF THE  
2 FOLLOWING IF USED BY THE NONTRANSPLANT TISSUE BANK: AUTOPSY  
3 REPORTS, DONATION QUESTIONNAIRES, AND OTHER DONOR OR DECEDENT  
4 SOLICITATION MATERIALS; AND

5 (f) TRACKING DOCUMENTATION OF THE LOCATION OF EACH BODY  
6 PART.

7 (3) A NONTRANSPLANT TISSUE BANK SHALL KEEP COMPLETE AND  
8 ACCURATE RECORDS AND MAKE THE RECORDS OPEN FOR INSPECTION BY  
9 THE DIRECTOR.

10 **12-54.5-104. Standards of practice.** (1) A NONTRANSPLANT  
11 TISSUE BANK SHALL:

12 (a) HANDLE BODY PARTS IN A SAFE AND SANITARY MANNER;

13 (b) BE EQUIPPED WITH INSTRUMENTS AND SUPPLIES NECESSARY TO  
14 PROTECT THE HEALTH AND SAFETY OF THE PUBLIC AND EMPLOYEES OF THE  
15 NONTRANSPLANT TISSUE BANK; AND

16 (c) AFFIX IDENTIFICATION TO EACH BODY PART AND PROVIDE  
17 TRACKING PAPERWORK TO MATCH THE IDENTIFICATION.

18 (2) A NONTRANSPLANT TISSUE BANK SHALL NOT COMMINGLE  
19 UNIDENTIFIED OR UNHARVESTED BODY PARTS PRIOR TO TRANSFER TO A  
20 CREMATORY OR FUNERAL ESTABLISHMENT, AS THOSE TERMS ARE DEFINED  
21 IN SECTION 12-54-102 (5) AND (12), RESPECTIVELY.

22 (3) AN INCINERATOR THAT IS USED FOR THE DISPOSAL OF BODY  
23 PARTS AND THAT IS OPERATED BY A REGISTERED NONTRANSPLANT TISSUE  
24 BANK NEED NOT BE REGISTERED UNDER PART 3 OF ARTICLE 54 OF THIS  
25 TITLE 12. THE INCINERATOR MAY COMMINGLE BODY PARTS FROM  
26 MULTIPLE DECEDENTS.

27 **12-54.5-105. Disclosure.** (1) A NONTRANSPLANT TISSUE BANK  
28 SHALL DISCLOSE, IN CLEAR AND UNAMBIGUOUS TERMS, THE FOLLOWING  
29 INFORMATION TO THE DONOR OR TO THE PERSON AUTHORIZED BY LAW TO  
30 CONSENT TO DONATION:

31 (a) THAT THE DONATED BODY PART MAY BE DISTRIBUTED, IN  
32 WHOLE OR IN PART, BY THE NONTRANSPLANT TISSUE BANK;

33 (b) THAT THE DONATED BODY PART MAY BE RETURNED, IN  
34 WHOLE OR IN PART, TO THE NONTRANSPLANT TISSUE BANK; AND

35 (c) THAT THE NONTRANSPLANT TISSUE BANK WILL BE  
36 COMPENSATED FOR DISTRIBUTION OF THE BODY PART.

37 **12-54.5-106. Discipline.** (1) THE DIRECTOR MAY DENY, SUSPEND,  
38 REVOKE, OR PLACE ON PROBATION A NONTRANSPLANT TISSUE BANK OR  
39 ISSUE A LETTER OF ADMONITION TO AN APPLICANT FOR OR HOLDER OF A  
40 NONTRANSPLANT TISSUE BANK REGISTRATION IF THE NONTRANSPLANT  
41 TISSUE BANK OR APPLICANT:

42 (a) VIOLATES AN ORDER OF THE DIRECTOR, THIS ARTICLE 54.5, OR  
43 THE RULES ESTABLISHED UNDER THIS ARTICLE 54.5;

1 (b) MAKES A MATERIAL MISSTATEMENT OR OMISSION IN THE  
2 REGISTRATION OR THE APPLICATION FOR A REGISTRATION;

3 (c) VIOLATES FEDERAL LAW, COLORADO LAW, OR AN ORDINANCE  
4 OR RESOLUTION OF A POLITICAL SUBDIVISION OF COLORADO IN THE  
5 OPERATION OF THE NONTRANSPLANT TISSUE BANK; OR

6 (d) HAS INCURRED DISCIPLINARY ACTION RELATED TO THE  
7 ADMINISTRATION OF A NONTRANSPLANT TISSUE BANK IN ANOTHER  
8 JURISDICTION. EVIDENCE OF THIS DISCIPLINARY ACTION IS PRIMA FACIE  
9 EVIDENCE FOR DENIAL OF REGISTRATION OR OTHER DISCIPLINARY ACTION  
10 IF THE VIOLATION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS  
11 STATE.

12 (2) TO BE VALID, A PROCEEDING TO DENY, SUSPEND, REVOKE, OR  
13 PLACE ON PROBATION A REGISTRATION MUST BE CONDUCTED IN  
14 ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105. THE DIRECTOR  
15 MAY USE AN ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE OFFICE OF  
16 ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL TO  
17 CONDUCT A HEARING.

18 **12-54.5-107. Violations and penalties.** A PERSON WHO VIOLATES  
19 THIS ARTICLE 54.5 IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION,  
20 SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND  
21 DOLLARS, IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN  
22 TWENTY-FOUR MONTHS, OR BOTH THE FINE AND IMPRISONMENT.

23 **SECTION 4.** In Colorado Revised Statutes, 24-34-104, amend  
24 (25)(a)(XIII) as follows:

25 **24-34-104. General assembly review of regulatory agencies**  
26 **and functions for repeal, continuation, or reestablishment - legislative**  
27 **declaration - repeal.** (25) (a) The following agencies, functions, or both,  
28 are scheduled for repeal on September 1, 2024:

29 (XIII) The regulation of persons registered to practice mortuary  
30 science by sections 12-54-110 and 12-54-111 and cremation by sections  
31 12-54-303 and 12-54-304, and the administration thereof in accordance  
32 with part 4 of article 54 of title 12, AND THE REGULATION OF  
33 NONTRANSPLANT TISSUE BANKS BY SECTION 12-54.5-102;

34 **SECTION 5.** In Colorado Revised Statutes, 12-54-303, amend (1)  
35 as follows:

36 **12-54-303. Registration required.** (1) Unless practicing at a  
37 registered crematory pursuant to UNDER this section AND EXCEPT AS  
38 PROVIDED IN SECTION 12-54.5-104 (3), a person shall not practice as, or  
39 offer the services of, a cremationist, nor shall the crematory sell or offer  
40 to sell funeral goods and services to the public.

41 **SECTION 6. Act subject to petition - effective date.** This act  
42 takes effect at 12:01 a.m. on the day following the expiration of the  
43 ninety-day period after final adjournment of the general assembly (August

1 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
2 referendum petition is filed pursuant to section 1 (3) of article V of the  
3 state constitution against this act or an item, section, or part of this act  
4 within such period, then the act, item, section, or part will not take effect  
5 unless approved by the people at the general election to be held in  
6 November 2018 and, in such case, will take effect on the date of the  
7 official declaration of the vote thereon by the governor."

\*\* \*\* \*\* \*\* \*\*