

**10 GCA HEALTH AND SAFETY
CH. 4A DEAD BODIES**

**CHAPTER 4A
DEAD BODIES**

2015 NOTE: This chapter and its subsections, §§ 4501-4510, were renumbered to adhere to the Compiler's general codification scheme pursuant to the authority granted by 1 GCA § 1606.

- § 4A101. Disposition.
- § 4A102. Right of Sepulcher, the Right to Choose and Control Final Disposition of a Dead Human Body.
- § 4A103. Indigents; Duty of Director.
- § 4A104. Burial Permit.
- § 4A105. Discretion of Director as to Disposition.
- § 4A106. Transportation of Infected Body Within the Territory of Guam.
- § 4A107. Transportation into or from the Territory of Guam.
- § 4A108. Limitation on Transportation.
- § 4A109. Disinterment.
- § 4A110. Next-of-Kin Defined.

§ 4A101. Disposition.

All unembalmed dead human bodies shall be buried or cremated within twenty-four (24) hours after death, unless kept under adequate refrigeration in the custody of the Director, or as many otherwise be authorized by the Director.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956.

§ 4A102. Right of Sepulcher, the Right to Choose and Control Final Disposition of a Dead Human Body.

(a) As used in this Section, the term right of sepulcher means the right to choose and control the burial, cremation, or other final disposition of a dead human body.

(b) The next-of-kin, as defined in § 4A110 of this Chapter, of the deceased shall be entitled to control the final disposition of the remains of any dead human being consistent with all applicable laws, including all applicable health codes.

(c) A mortician or mortuary is entitled to rely on and act according to the lawful instructions of any person claiming to be the next-of-kin of the

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deceased; provided, however, in any civil cause of action against a funeral director or establishment licensed pursuant to this Chapter for actions taken regarding the funeral arrangements for a deceased person in the director's or establishment's care, the relative fault, if any, of such mortician or mortuary may be reduced if such actions are taken in reliance upon a person's claim to be the deceased person's next-of-kin.

(d) Any person who desires to exercise the right of sepulcher and who has knowledge of an individual or individuals with a superior right to control disposition shall notify such individual or individuals prior to making final arrangements.

(e) If an individual with a superior claim is personally served with written notice from a person with an inferior claim that such person desires to exercise the right of sepulcher and the individual so served does not object within forty-eight (48) hours of receipt, such individual shall be deemed to have waived such right. An individual with a superior right may also waive such right at any time if such waiver is in writing and dated.

(f) If there is more than one (1) person in a class who are equal in priority and the mortician has no knowledge of any objection by other members of such class, the mortician or mortuary shall be entitled to rely on and act according to the instructions of the first such person in the class to make arrangements; provided that such person assumes responsibility for the costs of disposition and no other person in such class provides written notice of his or her objection.

(g) Any person may designate an individual to be his or her closest next-of-kin, regardless of blood or marital relationship, by means of a written instrument that is signed, dated, and verified. Such designation of right of sepulcher shall be witnessed by two (2) persons, and shall contain the names and last known address of each person entitled to be next-of-kin but for the execution of the designation of right of sepulcher and who are higher in priority than the person so designated.

(h) (1) Legislative Finding and Intent. *I Liheslaturan Guåhan* finds that due to the unique and extremely virulent pathogenic nature of certain communicable diseases, that there is a prevailing public health and safety necessity of ensuring that the dead human body which died as a result of any communicable disease, which is identified and declared by the U.S. Center for Disease Control and Prevention (CDC)

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to be critically dangerous to public health and safety, then, final disposition shall be determined by the Director.

(2) In the case of a dead human body which died as a result of any communicable disease, which is identified and declared by the U.S. Center for Disease Control and Prevention (CDC) to be critically dangerous to public health and safety, then, final disposition shall be determined by the Director.

Final disposition shall be pursuant to CDC mandates, directives, instructions and protocol criteria being declared and implemented in a national effort to combat the spread of the disease, to include special protocols and procedures for the final disposition of human remains with a continuing and extremely high contagion potential for transmission of the communicable disease, as shall be determined and mandated by the CDC.

Final disposition of a dead human body, as determined necessary for public health and safety by the Director, shall include the authority to order mandatory cremation, and to further include, the authority to restrict or prohibit access to the dead human body.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956. Repealed and reenacted by P.L. 31-046:1 (May 23, 2011). Subsection (h) added by P.L.32-221:8 (Dec. 29, 2014).

§ 4A103. Indigents: Duty of Director.

Where the duty of burial or other disposition of a dead human body does not devolve upon any other person in Guam, or if such person cannot after reasonable diligence be found within Guam, the Director shall arrange for burial at sea or on land, or cremation of such body.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956. Amended by P.L. 31-046:4 (May 23, 2011).

§ 4A104. Burial Permit.

No human body shall be buried, deposited in a crypt, mausoleum or vault, cremated, or otherwise disposed of, unless a permit has first been issued therefor by the Director. Such permit shall be presented to the person in charge of the cemetery or other place of disposition, or crematory, and shall be promptly returned by him to the Director after such burial, or other disposition, or cremation, with a notation of the completion thereof.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956.

§ 4A105. Discretion of Director as to Disposition.

In the protection of the public health, having consideration of the cause of death or other special conditions, and as provided pursuant to § 4A102(h) and this Chapter, the Director shall have ultimate authority over the final disposition of the human body, and may in his discretion order such form of burial or disposition of a dead human body as he deems necessary.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956. Amended by P.L. 32-221:9 (Dec. 29, 2014).

§ 4A106. Transportation of Infected Body Within the Territory of Guam.

No person shall transport any dead human body of any person who died from, or while having, any communicable disease as specified in Subchapter D, within Guam, including from one house, building or other structure to another house, building or other structure, without a permit from the Director which shall specify the conditions under which such move may be made.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956.

§ 4A107. Transportation into or from the Territory of Guam.

No dead human body shall be transported into or from the Territory of Guam without a permit from the Director and unless it has been embalmed and is in a sound casket and enclosed in a wooden transportation case.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956.

§ 4A108. Limitation on Transportation.

Notwithstanding the provisions of §§ 4A106 and 4A107, the transportation into, from, or within Guam of bodies of persons who have died from plague, small pox, Asiatic cholera, yellow fever, typhus fever, diphtheria, typhoid fever, or anthrax is prohibited without a permit from the Director and unless all activities preparations and transportation in connection therewith occurring within Guam are under his supervision.

SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956.

§ 4A109. Disinterment.

No dead human body or remains shall be disinterred, or removed from any cemetery or place of burial, for reburial or otherwise, or from any crypt, mausoleum, or vault, without a permit from the Director.

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SOURCE: Added by P.L. 3-109, effective Oct. 13, 1956.

§ 4A110. Next-of-Kin Defined.

For purposes of this Chapter and in all cases relating to the custody, control, and disposition of deceased human remains, where *not* otherwise defined, the term *next-of-kin* means the following persons in the priority listed if such person is eighteen (18) years of age or older, is mentally competent, and is willing to assume responsibility for the costs of disposition:

- (a) The surviving spouse;
- (b) A surviving child of the deceased. If a surviving child is less than eighteen (18) years of age and has a legal or natural guardian, such child *shall not* be disqualified on the basis of the child's age and such child's legal or natural guardian, if any, *shall* be entitled to serve in the place of the child unless such child's legal or natural guardian was subject to an action in dissolution from the deceased. In such event the person or persons who may serve as next-of-kin *shall* serve in the order provided in Subsections (c) to (g) of this Section;
- (c) A surviving parent of the deceased; or if the deceased is a minor, a surviving parent who has custody of the minor; or if the deceased is a minor and the deceased's parents have joint custody, the parent whose residence is the minor child's residence for purposes of mailing and education;
- (d) A surviving sibling of the deceased;
- (e) Any person designated by the deceased to act as next-of-kin pursuant to a valid designation of right of sepulcher as provided in § 4A102(g) of this Chapter;
- (f) The next nearest surviving relative of the deceased by consanguinity or affinity;
- (g) Any person or friend who assumes financial responsibility for the disposition of the deceased's remains if no next-of-kin assumes such responsibility.

SOURCE: Added by P.L. 31-046:2 (May 23, 2011).
