

New York State Proposed regulations under DLA review

- Tissue Bank- Transplant and Non Transplant
- Funeral Directors / Funeral Firms

New paragraphs (7) and (8) of subdivision of Section 77.5 are added to read as follows:

(7) Recovery of donated tissue shall not occur within a funeral establishment.

(8) A funeral establishment shall not conduct business or otherwise function as a tissue bank, or a nontransplant anatomic bank or serve a similar function.

A new subdivision (j) of Section 77.6 is added to read as follows:

- (j) *Restrictions.* No business registration certificate shall be issued to a funeral firm having a licensed tissue bank, or nontransplant anatomical bank, or bank employees or an agent of the bank; as a stockholder, officer, owner, partner, member, agent or employee of the firm. The registration certificate for the firm shall not be issued, and if previously issued, shall be void.

New subdivisions (i) and (j) of Section 77.7 are added to read as follows:

- (i) No funeral director, undertaker, embalmer or registered resident or other funeral firm employee shall approach customers to request donation of a whole body, body segment, organs and/or tissues for clinical use or for research or education. This does not prohibit supporting or advocating donation generally, providing information to potential donors and customers about donation and providing contact information for licensed tissue banks or nontransplant anatomic banks.

- (j) No funeral director, undertaker, embalmer or registered resident shall be involved either individually or jointly in management or operation of a tissue bank or nontransplant anatomic bank. This is not intended to preclude an individual who is a licensed funeral director and not actively engaged in the business and practice of funeral directing from seeking or obtaining employment at a tissue bank and/or nontransplant anatomical bank.

A new paragraph (3) of subdivision (bb) of Section 77.12 is added to read as follows:

- (3) charging or passing through to customers a restoration fee when restoration is required or necessitated following donation of tissue or organs for transplantation or research.

New subdivisions (cc)-(ee) of section 77.12 are added to read as follows:

- (cc) obtaining custody from a general hospital of a deceased human body before an anatomical gift or other donation of tissue, including eyes, or organs for transplant has been determined and recovery is complete

- (dd) exercising undue influence on a customer's wishes relative to an anatomical gift or other donation for the purpose of transplantation or research.

- (ee) receiving a finders fee, or other compensation either directly or indirectly, or receiving or accepting a commission or other valuable consideration or other benefit in connection with an anatomical gift or other donation of transplant tissue or organs. This shall not be construed to prohibit reimbursement to a registered funeral firm for services provided the charge for service shall not exceed the actual price on the funeral firm's then current general price list.