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**MAR 14 2003**  
**OPINION NO. 03-0065**

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The Honorable Daniel T. Flavin  
Louisiana State Representative  
District 36  
3221 Ryan Street  
Lake Charles, LA 70601

**108 - A STATE BOARD OF  
EMBALMING & FUNERAL DIRECTING**

**La. R.S. 37:848**

Funeral homes which offer refrigeration services as an alternative to embalming may not hold a body, even if it is refrigerated, for more than thirty hours without embalming.

Dear Representative Flavin:

Your request for an Attorney General's Opinion has been forwarded to me for research and response.

Specifically, you ask if there is a conflict between Louisiana Revised Statutes 37:848(D)(2), (3) and (5) and regulations 26:003-1 and 26:003-2 from the Louisiana Sanitary Code?

The pertinent parts of La. R. S. 37:848 are reproduced below:

**La. R. S. 37:848. Unlawful practice**

D. (2) If the body is to be held longer than thirty hours, it shall be embalmed.

(3) If the body is not embalmed, it shall be buried, cremated, or otherwise disposed of within thirty hours after death or as soon as possible after its Release by the proper authorities.

(5) Every dead human body shall be disposed of and prepared through a funeral establishment and under the supervision of a licensed funeral home or embalmer.

(6) Notwithstanding any provision of this Part to the contrary, a licensed hospital or medical school may hold a body for more than thirty hours without having the body embalmed and a licensed hospital, medical school, or the Bureau of Anatomical Services may dispose of any tissues or organs according to accepted procedures.

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E. The provisions of R.S. 37:848(D)(1) through (5) shall not apply to the Anatomical Board (R.S. 17:2271-2280).

F. The provisions of R.S. 37:848(D)(1) through (5) shall not apply to accredited schools of mortuary science or funeral service.

Also reproduced are the pertinent regulations from the Louisiana Sanitary Code which are found in Louisiana Administrative Code, Title 51, Part 26:

26:003-1      Embalming of dead human bodies shall be performed in accordance with LSA-R.S. 37:831-861 relating to embalming.

26:003-2      If the body is to be held longer than thirty hours without refrigeration as specified, it shall be embalmed. If a dead human body is to be held longer than thirty hours in the custody of a Louisiana licensed hospital, Louisiana medical school, the Louisiana Anatomical Board or a certified coroner, it shall be refrigerated at all times at a temperature not to exceed 45° prior to its release to the authorized licensed funeral establishment for final disposition under LSA-R.S. 37, Chapter 10. If the body is not refrigerated or embalmed, it shall be buried, cremated, or otherwise disposed of within thirty hours after death or as soon as possible after its release to the authorized licensed funeral establishment.

After review of La. R.S. 37:848 and the Louisiana Sanitary Code, Title 51, Part 26, it is apparent that there is no conflict between the provisions. The statutes found in Louisiana Revised Statutes, Title 37, set out the laws governing embalming and funeral directors. According to La. R.S. 37:848(D)(2), "If the body is to be held longer than thirty hours, it shall be embalmed." There is nothing in this statute that allows funeral homes to hold a body for more than thirty hours unless it is embalmed. Further, funeral homes which offer refrigeration services as an alternative to embalming may not hold a body, even if it is refrigerated, for more than thirty hours.

You cite regulations from the Sanitary Code as being in conflict with Revised Statutes, Title 37, since the Sanitary Code regulations discuss requirement of refrigeration of a body held more than thirty hours.

It is the opinion of this office that the Sanitary Code regulations which are reproduced above refer to Louisiana licensed hospitals, Louisiana medical schools, the Louisiana Anatomical Board or a certified coroner. It is clear that these regulations do not refer to funeral homes.

Representative Daniel T. Flavin

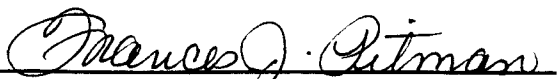
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I trust your question has been adequately answered. However, if you should need anything further do not hesitate to contact this office.

Very truly yours,

**RICHARD P. IEYOUB  
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BY:   
**FRANCES J. PITMAN  
ASSISTANT ATTORNEY GENERAL**

RPI:FJP:sc

cc: Mr. Eaton L. Kittrell