



**WEST VIRGINIA  
SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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11/20/2017 9:10:26 AM

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

AGENCY **Higher Education Policy Commission**  
RULE TYPE **Interpretive** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **133-33**  
RULE NAME **Anatomical Board**

CITE AUTHORITY **18B-1-6**

COMMENTS LIMITED TO  
**Written**

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS  
**Wednesday, December 20, 2017 5:00 PM**

WRITTEN COMMENTS MAY BE MAILED TO  
**Dr. Paul L. Hill  
Chancellor  
WV Higher Education Policy Commission  
1018 Kanawha Boulevard, East  
Charleston, WV 25301**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**  
**Cindy L Anderson – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 133-33



Rule Id: 16672



Document: 50009



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**FORM 1 – NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 2)**

AGENCY	<b>Higher Education Policy Commission</b>			
RULE TYPE	<b>Interpretive</b>	<b>AMENDMENT TO EXISTING RULE</b>	<b>Yes</b>	<b>TITLE-SERIES 133-33</b>
RULE NAME	<b>Anatomical Board</b>			

CITE AUTHORITY 18B-1-6

**PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL**

**Updates rule to comply with recent legislative changes.**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**

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**FORM 11 – FISCAL NOTE FOR PROPOSED RULES (Page 1)**

AGENCY	<b>Higher Education Policy Commission</b>		
RULE TYPE	<b>Interpretive</b>	<b>AMENDMENT TO EXISTING RULE</b>	<b>Yes</b>
RULE NAME	<b>Anatomical Board</b>	<b>TITLE-SERIES</b>	<b>133-33</b>

CITE AUTHORITY 18B-1-6

**PRIMARY CONTACT**

Cindy L. Anderson  
WV Higher Education Policy Commission  
1018 Kanawha Boulevard, East  
Charleston, WV 25301

**Cindy L Anderson – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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**FORM 11 – FISCAL NOTE FOR PROPOSED RULES (Page 1)**

AGENCY	<b>Higher Education Policy Commission</b>		
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RULE NAME	<b>Anatomical Board</b>		<b>33</b>

CITE AUTHORITY 18B-1-6

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

N/A

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**FORM 11 – FISCAL NOTE FOR PROPOSED RULES (Page 2)**

AGENCY **Higher Education Policy Commission**  
RULE TYPE **Interpretive** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **133-33**  
RULE NAME **Anatomical Board**

CITE AUTHORITY **18B-1-6**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
<b>ESTIMATED TOTAL COST</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>PERSONAL SERVICES</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CURRENT EXPENSES</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REPAIRS AND ALTERATIONS</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>ASSETS</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>OTHER</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>ESTIMATED TOTAL REVENUES</b>	<b>0</b>	<b>0</b>	<b>0</b>

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**FORM 11 – FISCAL NOTE FOR PROPOSED RULES (Page 3)**

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RULE TYPE	<b>Interpretive</b>	<b>AMENDMENT TO EXISTING RULE</b>	<b>Yes</b> TITLE-SERIES <b>133-</b>
RULE NAME	<b>Anatomical Board</b>		<b>33</b>

CITE AUTHORITY 18B-1-6

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

**Cindy L Anderson – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 133-33



Rule Id: 16672



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**FORM 11 – FISCAL NOTE FOR PROPOSED RULES (Page 4)**

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RULE NAME	<b>Anatomical Board</b>			

CITE AUTHORITY 18B-1-6

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND/OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Cindy L Anderson – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 133-33



Rule Id: 16672



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TITLE 133  
INTERPRETIVE RULE

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 33  
ANATOMICAL BOARD

§133-33-1. Section 1. General.

1.1. Scope: This rule establishes the government and operations of the West Virginia Higher Education Policy Commission Anatomical Board.

1.2. Authority: ~~W. Va.~~ West Virginia Code §§18B-1-6, §18B-4-8.

1.3. Filing Date: ~~August 7, 2002~~

1.4. Effective Date: ~~September 6, 2002~~

1.5. Repeal of Former Rule: Repeals and Replaces Title ~~128~~133, Series ~~58~~33, dated ~~March 8, 1991~~  
September 6, 2002.

§133-33-2. Section 2. Purpose.

2.1. ~~The West Virginia Higher Education Policy Commission hereby establishes the West Virginia Anatomical Board. In accordance with the provisions of W. Va. Code §18B-4-8, the Anatomical Board shall have full power to establish rules and regulations for its own governance and for the requisition, use, disposition, and control of such dead human bodies as may come under its authority by way of gift. The West Virginia Anatomical Board (Anatomical Board) is established for receiving, recordkeeping and making disposition of dead human bodies for the scientific and educational uses and purposes of higher education institutions within the state and elsewhere.~~

2.2. The Anatomical Board shall operate consistent with the Revised Anatomical Gift Act (West Virginia Code §16-19-1).

§133-33-3. Section 3. Appointments of Members.

3.1. ~~The West Virginia Anatomical Board shall consist of the following four members or their designees: (1) the dean of the school of dentistry, of the West Virginia University School of Dentistry; (2) the chairperson of the department of anatomy, dean of the West Virginia University, School of Medicine; (3) the chairperson of the department of anatomy, dean of the Marshall University, School of Medicine; and (4) the dean of the school of medicine, West Virginia School of Osteopathic mMedicine.~~

~~3.1.1. The West Virginia Anatomical Board shall have the authority to appoint such officers, and agents as may be necessary to carry out the purposes for which the Anatomical Board is organized.~~

~~3.1.2. Because membership on the Anatomical Board for the most part is specified in the statute and is tied to certain positions within the state's school of dentistry and schools of medicine, members of necessity may be reappointed to membership on the Anatomical Board. Members of the Anatomical Board may be represented by a designee from their respective institution with right of proxy.~~

**§133-33-4. Section 4. Compensation of Board Members.**

4.1. All members of the Anatomical Board ~~by statute~~ shall be members of the state's schools of medicine and dentistry and shall not be entitled to, or receive, any compensation for services rendered in their capacity as members of the Anatomical Board. ~~Anatomical Board members may be reimbursed for incidental expenses, subject to applicable state and Higher Education Policy Commission regulations.~~

**§133-33-5. Section 5. Budget.**

5.1. The ~~West Virginia~~ Anatomical Board shall have no budget and, therefore, shall receive no direct allocation of state funds because its functions are financed by the state's medical and dental schools as an element of their educational expense. ~~The current practice, whereby the functions of the Anatomical Board are financed by the state's three medical schools as an element of their educational expense, shall continue.~~

5.2. ~~Each school currently operates~~ Marshall University, West Virginia School of Osteopathic Medicine, and West Virginia University each currently operate a Human Gift Registry subject to the Administrative Guidelines of the Anatomical Board. These registries shall be financed as an educational expense of each medical and/or dental school.

**§133-33-6. Section 6. Promulgation of Rules and Regulations. Administration and Operations**

6.1. ~~The West Virginia Anatomical Board is vested by statute with the authority to establish its own rules and regulations pursuant to W. Va. West Virginia Code §18B-4-8. The Chancellor of the West Virginia Higher Education Policy Commission (Commission) oversees the administration of the Anatomical Board.~~

6.2. The Anatomical Board shall have the authority to appoint such officers and agents as may be necessary to carry out its operations. The chairperson of the Anatomical Board (the Chairperson), the administrative staff of the Anatomical Board, and location of the administrative office shall be reviewed at each annual meeting.

~~6.2.~~ 6.3. ~~The Anatomical Board has adopted~~ shall adopt and transmitted transmit to the ~~Higher Education Policy Commission~~ Higher Education Policy Commission ~~a copy of rules and regulations by the Anatomical Board~~ its Administrative Guidelines. ~~These rules and regulations are included as Appendix A of this rule. By enacting this rule, the Policy Commission specifically adopts, as its own, the current rules and regulations~~ Administrative Guidelines of the ~~West Virginia Anatomical Board.~~ Such rules and regulations shall be in effect until superseded by new rules and regulations adopted by the West Virginia Anatomical Board and approved by the Higher Education Policy Commission.

~~6.3.~~ 6.4. ~~The rules and regulations~~ Administrative Guidelines of the Anatomical Board may be amended ~~or replaced in whole or in part~~ by the Anatomical Board ~~at its pleasure.~~ When such changes are made, however, the revised ~~rules and regulations~~ Administrative Guidelines shall be forwarded to the ~~West Virginia Higher Education Policy Commission~~ for inclusion as Appendix A of this rule.

6.4. 6.5. The Anatomical Board is charged under ~~W. Va. West Virginia Code §18B-4-8~~ with keeping a full and complete record of its transactions, indicating (among other things) every dead human body coming under its authority and giving the name, sex, age, date of death, place from which received, and when and from whom received. This record must be open at all times to the Attorney General of West Virginia and to any prosecuting attorney within the state. ~~Accordingly, a single numbering system shall be established, and the central record keeping system for the Anatomical Board shall be continued as~~

~~currently established and functioning under the rules and regulations of the West Virginia Anatomical Board.~~

~~6.5. 6.6. In order for the Anatomical Board to more fully comply with its statutory duties relating to the keeping of records, each Each institution which receives bodies under the Anatomical Board's authority shall, upon receipt of such body, file with the Board's Secretary Anatomical Board a copy of the Death Certificate and a copy of the Donor Registration Form or Relative Release Form. Further, each institution which receives executed Donor Registration Forms and bodies under the Board's authority shall file monthly reports with the Board's Secretary giving the name, date of birth or Social Security number, sex, age, date of death, place from which received, and when and from whom received (in the case of donated body) and a copy of the Donor Registration Form (in the case of newly registered donors). In addition, each Each institution in possession of bodies under the Anatomical Board's authority shall annually submit to the Anatomical Board the status of each body, or a copy of the Disinterment-Reinterment Permit or some other documentation indicating final disposition. The Department of Neurobiology and Anatomy at West Virginia University currently serves as the Administrative Office for the West Virginia Anatomical Board. The Chair of the Department serves as the Chair of the Anatomical Board. The Secretary of the Anatomical Board is designated by the Chair of the Anatomical Board and is currently a designated office staff in the Department. Notification of the Higher Education Policy Commission is required in the event of changes in the administrative organization of the Anatomical Board.~~

~~6.6. The West Virginia Code requires that members of the Anatomical Board file a bond with the Clerk of the Circuit Court of Kanawha County or to prove to such Clerk that the members of the Anatomical Board be covered by a suitable bond in the amount of at least one thousand dollars (\$1,000). Accordingly, the West Virginia Higher Education Policy Commission shall communicate with the State Board of Risk and Insurance Management and with the Circuit Court of Kanawha County to record the filing of such bond.~~

### §133-33-7. Section 7. Reporting Requirements.

~~7.1. The Anatomical Board shall record the minutes of its regular and special ~~meeting~~ meetings and shall forward copies of these minutes to the Chancellor of the West Virginia Higher Education Policy Commission. The minutes should include a report of major actions taken, issues discussed, transactions accomplished, and recommendations requiring action by the Commission.~~

~~7.2. The Anatomical Board shall submit to the West Virginia Higher Education Policy Commission an annual report of major actions taken, issues discussed, transactions accomplished, and recommendations requiring action by the Policy Commission.~~

~~APPENDIX A~~~~WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION~~~~WEST VIRGINIA ANATOMICAL BOARD RULES AND REGULATIONS~~

~~Institutions and individuals using human bodies for scientific study, as authorized by state statutes, are required thereby to comply with the Rules and Regulations prescribed by the West Virginia Anatomical Board. The West Virginia Anatomical Board shall meet at least annually to review its Rules and Regulations and make appointments. The chairperson of the Board, secretary of the Board, and location of the administrative office shall be reviewed at each annual meeting. Advance public notice through the news media shall be given for all regularly scheduled meetings of the Board and for all special meetings except for an emergency requiring immediate official action.~~

~~The Rules and Regulations prescribed by the West Virginia Anatomical Board apply to the use of all bodies, whether requisitioned by the West Virginia Anatomical Board or donated under the provisions of the uniform Anatomical Gift Act (W.Va. Code §16-19). It is noted that two (2) general categories of dead human bodies are recognized by state statutes: First, those which are requisitioned by the West Virginia Anatomical Board (for example, certain bodies that must be buried at public expense) and second, those donated under the provisions of the Uniform Anatomical Gift Act to the West Virginia Anatomical Board for utilization in scientific or medical research or education. Institutions utilizing human bodies of either category must designate a person at the institution, acceptable by the Board, who will assume responsibility for assuring full compliance with the following Rules and Regulations. A written copy of such assurance, designating the name of the responsible person and signed by the chief officer of that institution, is to be submitted to the Board prior to usage of human bodies. Authorized individuals who are not associated with institutions must submit written assurance of compliance with these Rules and Regulations prior to usage of a human body or bodies.~~

- ~~1. All human bodies used by an authorized institution or individual for scientific study must be channeled through the West Virginia Anatomical Board prior to usage of the body or bodies. This may be carried out by direct correspondence and does not necessarily require that the body itself be delivered to the Board. All bodies under the jurisdiction of the West Virginia Anatomical Board are to be numbered using a single numbering system administered by the Secretary of the Board.~~
- ~~2. All bodies donated for scientific or medical study at an authorized institution or by an authorized person (for example, not requisitioned by the Board) require a properly signed and witnessed Donor Registration or Donation and Release Form. At the time of delivery of the body to such institution or person, a copy of the Death Certificate and Donor Card or Donation and Release Form shall be forwarded to the Board.~~
- ~~3. Postnatal bodies delivered to institutions or to authorized individuals require a Burial Transit Permit if delivery of the body is made from outside the county in which that institution or other authorized recipient is located. Within a county, a permit is not ordinarily required if the Death Certificate stipulates that the institution or authorized individual is to receive the body. If the~~

body, or any part of the body, or the ashes are removed to any other location, within or outside the county, a Disinterment Reinterment Permit is then required at the time of removal. Modes of transportation must be appropriate in consideration of the dignity of the human body.

4. ~~Following the usage of a body or bodies, it is the responsibility of the institution or authorized individual utilizing the body to properly dispose of the remains by cremation, unless some other proper manner of disposal is agreed upon by correspondence with the Board. Postnatal bodies must be cremated individually. A suitable crematory other than that used for animal remains is required. Ashes from each postnatal body must be interred in an identified, individual container in a manner that ensures dignity and respect. Upon request by the next of kin at the time of donation, ashes will be delivered as a courtesy and not as a lawful obligation to the next of kin in a suitable container using a proper mode of delivery. In all respects, the feelings and the concern of the family will be given reasonable consideration.~~
5. ~~A body may be donated to a specific institution. However, while reasonable efforts will be made to consider such requests of the donor, the Board may, in its discretion, authorize the use of the body or any part thereof by any authorized institution or person. A body or any part of a body which is in the care of an authorized institution or person may be removed to another authorized institution or person with the written consent of the West Virginia Anatomical Board.~~
6. ~~All costs involved in the transportation of a body or bodies, embalming, cremation, and burial by the Board are to be assumed by the institution or authorized person utilizing the body or bodies. Such institutional costs shall include all administrative costs involved in the above, as well as cost incurred for memorial services, certificates and urns.~~
7. ~~Confidentiality of the identity of all bodies must be assured, including anonymity for student usage.~~
8. ~~Predoctoral and postdoctoral students are authorized to utilize human bodies for anatomical study if enrolled in appropriate anatomical courses of medicine, dentistry, or allied health sciences at institutions authorized by state statutes, subject to the Rules and Regulations prescribed by the Board, and such persons may be allowed access to the locations where bodies are utilized for anatomical study without further specific approval by the Board. Faculty members, resident students and appropriate nonfaculty medical, dental or allied health practitioners not enrolled in a course at an authorized institution also may utilize human bodies in the care of such institution for study if given permission by the responsible person designated by that institution, and if the study is carried out in the approved areas given to this purpose within that institution, as described below.~~
9. ~~A body or bodies must be utilized in specific locations approved by the Board. Such locations are to be construed as restricted areas and must be designed to ensure the proper security of the body, prevent unauthorized access or usage, contain facilities required for the proper manner of scientific usage and remain in a securely locked condition when not in immediate use.~~

~~Places for body storage, such as a departmental morgue, are to be construed as restricted areas, and access is to be limited to the faculty and appropriate staff of that department or unit. All other individuals must secure the permission of the responsible person designated by that institution for admission to this restricted area, and only applications giving legitimate reasons for access shall be approved.~~

10. Photographs of a body or any of its parts are not to be made for any reason without the express written consent of the Board or the responsible person designated by the institution. The Board retains the right to edit, with respect to propriety, all photographs utilizing gross anatomical human material intended for publication, and the Board must be notified of intention to public such material.
11. No institution or individual may "Buy" or "Purchase" a human body. However, human bodies may be secured from and/or transferred to other authorized institutions, with priority in West Virginia, or in other states should the need arise. Such schools shall be reimbursed for all reasonable costs.
12. The West Virginia Anatomical Board emphasizes the importance of maintaining the continuing good will of the public. Students who will utilize bodies for anatomical study are to be thoroughly instructed in the proper manner of professional conduct. No action is to be made, in public or private, that in any way will demean the human body. Conversational improprieties and any other manner of unprofessional or unethical conduct are strictly prohibited. The need for genuine and sincere respect for the dignity of the deceased human body and the obligation to treat the body in a responsible and professional manner are to be regarded as essential. While authorized students or others approved by the Board, or by the responsible person of an institution, have access to locations for body usage, such individuals do not have the authority in turn to grant admission or visitation privileges for guests not approved by the responsible person designated by the institution. Only persons having legitimate purpose shall be granted admission or the privilege of usage. All guests granted admission to locations for anatomical study must comply with the professional standards outlined herein.
13. The proper physical care of each body is to be maintained throughout the period of usage.
14. Nonliving human fetuses may be utilized for scientific study, subject to the following constraints:
- (a) Fetuses of less than twenty (20) weeks gestational age require no death certificate or Burial-Transit permit. However, the West Virginia Anatomical Board requires a Donation and Release Form signed by a parent or next of kin and by two (2) witnesses releasing the fetus for scientific study and disposal. Such a statement is required for all in-state, as well as out-of-state, fetuses. Fetus usage and disposition are to be carried out in accordance with the standard procedures pertaining to the usage and disposition of all postnatal human bodies as prescribed by state statutes and subject to the Rules and Regulations of the West Virginia Anatomical Board.
- (b) Nonliving fetuses exceeding twenty (20) weeks gestational age require a death certificate and Burial-Transit permit in compliance with state statutes. A Donation and Release Form, signed by a parent or next of kin and by two (2) witnesses is required by the West Virginia Anatomical Board, whether the gift is made in state or out of state. A Burial-Transit permit or a Disinterment Reinterment Permit, whichever applies, is required following the same guidelines prescribed for postnatal bodies. Fetus usage and disposition are to be carried out in accordance with standard procedures pertaining to the usage and disposition of all postnatal human bodies, in compliance with state statutes, and subject to the Rules and Regulations of the West Virginia Anatomical Board.
15. Full records are to be maintained by all institutions and authorized persons having prenatal and postnatal human bodies in their care. These records shall show all transactions and the name, sex, age, date of death, place from which received, when and from whom received, the West Virginia Anatomical Board number assigned, and other information relevant for each individual body.

Records shall be open at all times to inspection by the Attorney General, any prosecuting attorney in the state, and the West Virginia Anatomical Board.

In order for the Anatomical Board to more fully comply with its statutory duties relating to the keeping of records, each institution which receives bodies under the Board's authority shall, upon receipt of such body, file with the Board's secretary a copy of the Death Certificate and a copy of the Donor Registration Form or Relative Release Form. Further, each institution which receives executed Donor Registration Forms and bodies under the Board's authority shall file monthly reports with the Board's Secretary giving the name, date of birth or Social Security number, sex, age, date of death, place from which received, and when and from whom received (in the case of a donated body) and a copy of the Donor Registration Form (in the case of a newly registered donors). In addition, each institution shall annually submit to the Board the status of each body, or a copy of the Disinterment Reinterment Permit or some other documentation indicating final disposition.

16. ~~The propriety of any usage of the deceased human body for purposes other than for teaching and research must be approved in advance by the Board.~~
17. ~~The West Virginia Anatomical Board requires that a personal copy of the Rules and Regulations be provided for each and every individual student, faculty member, secretary, technician, authorized guests, custodial maintenance, and security staff member, and for all other persons having authorized access to locations designated by the Board as "Restricted," or otherwise having occasion to participate, in any manner, in the use of dead human bodies or parts of bodies for anatomical study or research. This copy of the Rules and Regulations is to be received by each individual person named above, prior to his or her initial entrance into restricted facilities, or prior to any participation in any act of anatomical study or research utilizing deceased human bodies or part thereof. This paragraph shall not be construed to include the use of human skeletal material purchased through commercial supply houses, but does include all skeletal material derived from any body coming under the authority of the West Virginia Anatomical Board.~~