

## DEATH REGISTRATION WORKGROUP MEETING NOTES

February 17, 2016

Regular text = paraphrased discussion

*Italics=Department's response*

***Bold, italics, and indented=rule with changes highlighted***

### **R9-19-303(C)**

During a discussion of the Meeting Notes from the January 27, 2016 meeting, the Department pointed out that the responsibilities of health care providers for completing death certificates had been increased by statutory changes made by Laws 2012, Ch. 60. A comment was made that the Medical Board and Nursing Board should provide training to their licensees about the changes and about providing cause of death on death certificates. A representative of the Medical Board stated a willingness to look into the possibility of facilitating such training. Another comment was made that a health care provider could include “possible” or “probable” with a cause or death or list the cause as “unknown.”

Still another comment was made that staff of local registrars should provide education to health care providers about their responsibilities, review the deceased individual’s medical records with the health care provider, and, if necessary, pull in legal counsel to require the health care provider to sign a death certificate.

*The Department agrees that licensing boards providing training to health care providers on completing medical certifications of death would be very helpful, not only for the Department and local registrars, but also for the health care providers. It is, however, not an issue for the rulemaking. The Department would be happy to work with the licensing boards to develop or adopt an appropriate training.*

*The Department believes that including “possible” or “probable” with a cause or death or listing the cause as “unknown” negates the statutory intent of a health care provider certifying cause of death. A.R.S. § 36-325(G) states that “If a person under the current care of a health care provider for an acute or chronic medical condition dies of that condition, or complications associated with that condition, the health care provider or a health care provider designated by that provider shall complete and sign the medical certification of death on a death certificate.” If a health care provider does not believe that the deceased individual died of the condition or complications associated with the condition for which the health care provider was treating the deceased individual, the health care provider should not be signing the medical certification of death, and the responsibility for determining the cause of death would fall on the medical examiner. However, for those health care providers who are hesitant to certify a cause of death due to concerns about possible complaints or legal action against them if a death is later determined to be due to a different cause than the one listed by the health care provider, A.R.S. § 36-325(N) states that “A health care provider who completes and signs a medical certification of death in good faith pursuant to this section is not subject to civil liability or professional disciplinary action.”*

*The Department believes that it may be appropriate for the staff of a local registrar to provide information to a health care provider about completing a medical certification of death, but that reviewing medical records with a health care provider or coercing the health care provider into attesting to a cause of death that the health care provider may not be comfortable providing is not appropriate.*

### **R9-19-303(D)(2)(b)(i)**

During the January 27, 2016 meeting, the comment had been made during the discussion of this rule and R9-19-304(A)(1) that medical examiners currently may review preliminary information and decline jurisdiction in a more informal manner than is prescribed in the draft rules. Alternate wording had been proposed for R9-19-304(A)(1), but no changes were made to this subsection until more groups were represented at the Workgroup Meeting. *After the discussion described above and the review of the changes suggested for R9-19-304(A)(1), the Department plans to change the rule as follows to take into account the more informal method of medical examiner review currently taking place:*

- 2. If the information submitted to register the deceased individual’s death indicates that the deceased individual’s death may have occurred under circumstances set forth in A.R.S. § 11-593 and the medical certification of death was not signed by the medical examiner, as required in A.R.S. § 11-594, or a tribal law enforcement authority, as allowed by A.R.S. § 36-325(I):**
  - a. Not register the deceased individual’s death, and**

- b. Request that the medical examiner or, if applicable, tribal law enforcement authority:
  - i. Review the circumstances of the individual's death to determine whether the:
    - (1) The medical examiner has jurisdiction according to A.R.S. § 11-593, or
    - (2) The tribal law enforcement authority has jurisdiction according to A.R.S. § 36-325(D);
  - ii. Notify the State Registrar or the local registrar of the county where a death occurred of the determination; and
  - iii. If applicable, complete and sign the medical certification of the deceased individual's death according to R9-19-304(B); and
- 3. Within 72 hours, either:
  - a. Register the deceased individual's death, or
  - b. Notify the person submitting the information according to subsections (B) or (C), as specified in R9-19-103(C).

**R9-19-304(A)(1) and R9-19-306(A)(1)**

Based on the changes made to R9-19-303(D)(2)(b)(i), the Department plans to change R9-19-304(A)(1) as follows:

- A. If a medical examiner of the registration district where a deceased individual's death occurred is notified according to A.R.S. § 11-593(B), the medical examiner shall determine whether the deceased individual died under any of the circumstances described in A.R.S. § 11-593(A) and:
  - 1. If the medical examiner determines that the deceased individual did not die under any of the circumstances described in A.R.S. § 11-593(A):
    - a. Document:
      - i. The medical examiner's determination that the medical examiner does not have jurisdiction according to A.R.S. § 11-593, and
      - ii. The name of a health care provider who had been providing current care to the deceased individual;
    - b. Provide, upon request, a copy of the documentation in subsection (A)(1)(a) to the State Registrar or a local registrar or deputy local registrar of the registration district where the deceased individual's death occurred; and
    - c. Notify the State Registrar or the local registrar or deputy local registrar of the registration district where the deceased individual's death occurred of the determination; and
  - 2. If the medical examiner determines that the deceased individual died under any of the circumstances described in A.R.S. § 11-593(A), take charge of the deceased individual's human remains under A.R.S. § 11-594.

Based on the changes made to R9-19-303(D)(2)(b)(i), the Department plans to change R9-19-306(A)(1) as follows:

- A. If a medical examiner of the registration district where a fetal death occurred is notified according to A.R.S. § 11-593(B), the medical examiner shall determine whether the fetal death occurred under any of the circumstances described in A.R.S. § 11-593(A) and:
  - 1. If the medical examiner determines that the fetal death did not occur under any of the circumstances described in A.R.S. § 11-593(A):
    - a. Document:
      - i. The medical examiner's determination that the medical examiner does not have jurisdiction according to A.R.S. § 11-593, and
      - ii. The name of a health care provider who had been providing current care to the deceased's mother;
    - b. Provide, upon request, a copy of the documentation in subsection (A)(1)(a) to the State Registrar or a local registrar or deputy local registrar of the registration district where the fetal death occurred; and
    - c. Notify the State Registrar or the local registrar or deputy local registrar of the registration district where the fetal death occurred of the determination; and
  - 2. If the medical examiner determines that the fetal death occurred under any of the circumstances described in A.R.S. § 11-593(A), take charge of the human remains under A.R.S. § 11-594.

### **R9-19-309(A) and (B)**

A question was asked about what information a funeral director or medical certifier can correct.

The Department plans to clarify the rules to specify that a funeral director can only correct information submitted by the funeral director and a medical certifier can only correct information submitted by the medical certifier. The Department plans to change the rule as follows:

- A.** To request the correction of information submitted by the funeral director or the funeral director's funeral establishment for registration of a deceased individual's death, according to R9-19-303(B) or R9-19-304(E), a funeral director shall submit to the State Registrar or the local registrar of the registration district where the death occurred:
  - 1.** A written request to correct the submitted information, on the letterhead paper of the funeral director's funeral establishment or in a Department-provided format, that includes:
    - a.** The name and license number of the funeral director submitting the request;
    - b.** Contact information for the funeral director submitting the request, which may include a telephone number or e-mail address;
    - c.** The deceased individual's:
      - i.** Name in the deceased individual's registered death record;
      - ii.** Sex;
      - iii.** Date of birth;
      - iv.** Date of death; and
      - v.** If known, the state file number;
    - d.** The specific information in the registered death record to be corrected; and
    - e.** A written statement attesting to the validity of the submitted correction signed and dated by the funeral director submitting the request for correction; and
  - 2.** A copy of the document required in R9-19-303(A).
- B.** To request the correction of information specified in R9-19-302(3) or (4) in a deceased individual's registered death record, a medical certifier, including a medical examiner or, if applicable, tribal law enforcement authority, who completed the medical certification of death for the deceased individual, according to R9-19-303(C)(2) or R9-19-304(B), shall submit to the State Registrar or the local registrar of the registration district where the death occurred:
  - 1.** A written request to correct the submitted information, on the letterhead paper of the medical certifier or in a Department-provided format, that includes the following information:
    - a.** The name and, as applicable, the health professional license number or the badge number of the medical certifier submitting the request;
    - b.** Contact information for the medical certifier submitting the request, which may include a telephone number or e-mail address;
    - c.** The information in subsection (A)(1)(c);
    - d.** The specific information in the registered death record to be corrected; and
    - e.** A written statement attesting to the validity of the submitted correction signed and dated by the medical certifier submitting the request for correction; and
  - 2.** An evidentiary document, dated before the date the deceased individual's death was registered, that demonstrates the validity of the submitted correction.
- C.** In addition to a correction of information in a deceased individual's registered death record allowed under subsection (B), a medical examiner may request the correction of any other information that had been submitted by the medical examiner according to R9-19-304(B) for the deceased individual's death record by submitting to the State Registrar or the local registrar of the registration district where the death occurred:
  - 1.** The written request to correct the submitted information in subsection (B)(1), and
  - 2.** An evidentiary document required in subsection (B)(2).

### **R9-19-309(E) and (F)**

A comment was made that the person submitting a request for a correction should provide an affidavit attesting to the validity of the corrected information.

The Department agrees and plans to change the rule as follows:

E. To request the correction of information in a deceased individual's registered death record, a person who was responsible for the final disposition of the deceased individual's human remains according to A.R.S. § 36-831 or who provided the information in R9-19-302(A)(1) and (2) to a funeral director, according to R9-19-303(A), shall submit to the State Registrar or the local registrar of the registration district where the death occurred:

1. A written request to correct, in a Department-provided format, that includes:

a. The following information:

i. The name of the person submitting the request;

ii. The person's relationship to the deceased individual;

iii. Contact information for the person submitting the request, which may include a telephone number or e-mail address;

iv. The information required in subsection (A)(1)(c); and

v. The specific information in the registered death record to be corrected; and

b. An affidavit attesting to the validity of the submitted correction, signed by the person requesting the correction;

2. An evidentiary document that demonstrates the person's relationship to the deceased individual;

3. An evidentiary document, dated before the date the deceased individual's death was registered, that demonstrates the validity of the submitted correction; and

4. The fee in R9-19-105 for a request to correct the information in a registered death record.

F. To request the correction of information in a registered fetal death record, a parent of the fetus shall submit, to the State Registrar or the local registrar of the registration district where the fetal death occurred:

1. A written request to correct, in a Department-provided format, that includes:

a. The following information:

i. The name of the parent submitting the request;

ii. Contact information for the parent submitting the request, which may include a telephone number or e-mail address;

iii. The information required in subsection (#)(1)(#); and

iv. The specific information in the registered fetal death record to be corrected; and

b. An affidavit attesting to the validity of the submitted correction, signed by the parent requesting the correction;

2. An evidentiary document, dated before the date the registration of the fetal death, that demonstrates the validity of the submitted correction; and

3. The fee in R9-19-105 for a request to correct the information in a registered death record.

### **R9-19-310**

A comment was made that the signed attestation on a request to amend a registered death record should always be notarized and would, therefore, meet the definition of an affidavit.

The Department agrees that this may be true for many amendments, but not for all requests for amendments, such as when a medical certifier or medical examiner obtains additional information that would require an amendment of the information in R9-19-302(A)(3) or (4) or (B). These situations are covered in R9-19-310(A) and (B). All other persons would be required to submit a signed affidavit. The Department plans to change the rule as follows:

C. To request the amendment of any of the information in R9-19-302(A)(1) or (2) in a deceased individual's registered death record, a person shall submit to the State Registrar or the local registrar of the registration district where the death occurred:

1. A request to amend, in a Department-provided format, that includes:

a. The following information:

i. The name of the person submitting the request;

ii. The person's relationship to the deceased individual;

iii. Contact information for the person submitting the request, which may include a telephone number or e-mail address;

iv. The information required in subsection (A)(1)(c); and

v. The specific information in the registered death record to be amended; and

- b. An affidavit attesting to the validity of the submitted amendment, signed by the person requesting the amendment;**
- 2. An evidentiary document that demonstrates the person's relationship to the deceased individual;**
- 3. An evidentiary document that demonstrates the validity of the submitted amendment; and**
- 4. The fee in R9-19-105 for a request to amend the information in a registered death record.**

During a discussion of the Meeting Notes from the January 27, 2016 meeting, a comment was made that a consulate could be sending documentation to a medical examiner about a "John Doe," on behalf of the family, to help identify the body. In that case, it might be the medical examiner who would be requesting that a registered death record for the deceased individual be amended to include an identification of the human remains. However, it could be the consulate that requests, on behalf of the deceased individual's family, the amendment of the registered death record to include demographic information about the deceased individual.

The Department has reviewed how such situations are currently handled and plans to change the rules as follows:

**E. The consulate of a foreign government may request the amendment of any of the information in R9-19-302(A)(1) or (2) in a deceased individual's registered death record on behalf of a family member of the deceased individual if:**

- 1. The family member:**
  - a. Is a citizen of the foreign country, and**
  - b. Resides in the foreign country;**
- 2. The deceased individual's medical certification of death was submitted by a medical examiner according to R9-19-304(B); and**
- 3. The consulate provided the medical examiner who submitted the deceased individual's medical certification of death with evidentiary documents that enabled the medical examiner to establish the identity of the deceased individual.**

**F. To request the amendment of any of the information in R9-19-302(A)(1) or (2) in a deceased individual's registered death record under subsection (E), the consulate of a foreign government shall submit to the State Registrar or the local registrar of the registration district where the death occurred:**

- 1. A written request to amend on the letterhead of the consulate, that includes:**
  - a. The name and address of the consulate;**
  - b. The name of and contact information for the consulate's designee for the request, which may include a telephone number or e-mail address;**
  - c. The name of the person the consulate is representing;**
  - d. The relationship of the person in subsection (F)(1)(c) to the deceased individual;**
  - e. The information required in subsection (A)(1)(c);**
  - f. The specific information in the registered death record to be amended; and**
  - g. The dated signature of the consulate's designee;**
- 2. Documentation verifying that the consulate's designee is representing the consulate;**
- 3. A written statement, signed by the consulate's designee, attesting that the consulate has verified the relationship of the person identified according to subsection (F)(1)(c) to the deceased individual;**
- 4. One or more evidentiary documents that demonstrate the validity of the submitted amendment; and**
- 5. The fee in R9-19-105 for a request to amend the information in a registered death record.**

#### **R9-19-312 (A)(3)**

A comment was made that the date of anticipated reinterment or cremation should be added to a request to obtain a disinterment-reinterment permit.

The Department agrees and plans to change the rules as follows:

**2-3. Submit the following information to a local registrar, a deputy local registrar, or the state registrar State Registrar to obtain a disinterment-reinterment permit:**

- a. The following information in a Department-provided format:**
  - i. For the human remains of a deceased individual:**
    - (1) The name, age, sex, and race of the deceased individual; and**
    - b-(2) The date and place of death;**
  - ii. For the human remains of a fetal death, the name of the mother and date of delivery;**

- ~~e-iii.~~ *The name of the cemetery or the location where the human remains are buried;*
- ~~d-iv.~~ *The name of the funeral director in charge of the disinterment;*
- ~~e-v.~~ *If applicable, the name or names of the family member or members who authorized the disinterment, as required in subsection (A)(1)(a);*
- ~~f-vi.~~ *The name of the cemetery or the location where it is anticipated that the human remains will be reinterred or the crematory where the human remains will be cremated; and*
- vii. *The anticipated date that the human remains will be reinterred or cremated; and***

#### **R9-19-312(B)**

A comment was made that a small cemetery would not keep a copy of a disinterment-reinterment permit for 10 years.

*The rule states that the funeral director who is in charge of the disinterment, not someone at the cemetery, is required to keep the copy for 10 years. The Department does not plan to change the rule.*

#### **R9-19-314(B)(1)**

A comment was made that there should be a time limit on a funeral director's eligibility to obtain a copy of a certificate of death registration on behalf of a family member. The current practice is to allow a funeral director to request copies of a certificate of death registration on behalf of a family member for 12 months after the registration of the deceased individual's death.

*The Department agrees and plans to change the rules as follows:*

- I. A funeral director representing one of the following in a final disposition of the deceased individual's human remains, within 12 months after the registration of the deceased individual's death:**

A comment was made that it might take 30 days or more for a niece or second cousin to obtain a death certificate for a relative who had died, when they were the ones responsible for the disposition of the human remains. A question was asked about whether use of "responsible person" will improve this situation.

*Since not every niece or second cousin should be able to obtain a deceased individual's death certificate, the Department anticipates that the addition of "responsible person" should help in these situations.*

*The Department also plans to change the requirements in R9-19-314(B) as follows to reflect a consulate's eligibility to obtain copies of a certificate of death registration on behalf of a family member:*

- B. The following are eligible to receive a certified copy of a deceased individual's certificate of death registration:**

- 17. The consulate of a foreign government representing a person who:**
  - a. Is eligible to receive a certified copy of the deceased individual's certificate of death registration, according to R9-19-314(B)(2), (3), (4), or (5);**
  - b. Is a citizen of the foreign country; and**
  - c. Resides in the foreign country; and**

#### **R9-19-315**

*The Department plans to change the requirements in R9-19-315 as follows to reflect requirements for a consulate requesting copies of a certificate of death registration on behalf of a family member:*

- I. The consulate of a foreign government, eligible to receive a certified copy of a deceased individual's certificate of death registration according to R9-19-314(B)(17), may request a certified copy of a deceased individual's certificate of death registration on behalf of one of the persons identified in R9-19-314(B)(2), (3), (4) or (5) by submitting to the State Registrar or a local registrar:**
  - 1. A written request, on the letterhead of the consulate, that includes:**
    - a. The name and address of the consulate;**
    - b. The name of and contact information for the consulate's designee for the request, which may include a telephone number or e-mail address;**
    - c. The name of the person the consulate is representing;**
    - d. The relationship of the person in subsection (I)(1)(c) to the deceased individual;**

- e. The information required in subsection (C)(1)(d) and (e);
- f. The reason the consulate is requesting a certified copy of the individual's certificate of death registration;
- g. The number of certified copies of the deceased individual's certificate of death registration being requested; and
- h. The dated signature of the consulate's designee;
- 2. Documentation verifying that the consulate's designee is representing the consulate;
- 3. A written statement, signed by the consulate's designee, attesting that the consulate has verified that the person identified according to subsection (I)(1)(c) is eligible under R9-19-314(B)(2), (3), (4) or (5) to receive a certified copy of the deceased individual's certificate of death registration; and
- 4. The fee in R9-19-105 for each certified copy of the deceased individual's certificate of death registration being requested.

The Department also plans to make separate subsections in R9-19-315, with requirements specific to the entity, for entities such as insurance companies, banks, credit unions, mortgage lenders, hospitals or other health care institutions, attorneys, and persons having a court order demonstrating a claim against a deceased individual's estate.

#### **R9-19-315(C)(5)**

A question was asked about why a funeral director who had entered information about a deceased into VSIMS should have to provide ID to request a copy of the deceased death certificate. A comment was made that some local registrars keep records of local funeral directors on file for reference.

Since a large proportion of certified copies of deceased individuals' certificates of death registration are requested and obtained by funeral directors on behalf of family members, the Department plans to make requirements for funeral directors in subsection (A). The Department also plans to add wording to address situations where a funeral director is requesting a copy of a deceased individual's certificate of death registration for family members of a deceased individual whose death record the funeral director had helped create. The Department plans to change the rule as follows:

- A. A funeral director eligible to receive a certified copy of a deceased individual's certificate of death registration according to R9-19-314(B)(1) may request a certified copy of a deceased individual's certificate of death registration on behalf of one of the persons identified in R9-19-314(B)(1)(b) through (d) by submitting to the State Registrar or a local registrar:
  - I. A written request, on the letterhead of the funeral establishment or in a Department-provided format, that includes:
    - a. The name and license number of the funeral director;
    - b. Contact information for the funeral director, which may include a telephone number or e-mail address;
    - c. The name and address of the funeral director's funeral establishment;
    - d. The deceased individual's:
      - i. Name in the deceased individual's registered death record,
      - ii. Date of birth, and
      - iii. Date of death;
    - e. If known, the:
      - i. Sex of the deceased individual,
      - ii. State file number,
      - iii. Town or city of the deceased individual's death,
      - iv. County of the deceased individual's death,
      - v. Place of the deceased individual's death, and
      - vi. Deceased individual's Social Security Number;
    - f. The number of certified copies of the individual's certificate of death registration being requested; and
    - g. The dated signature of the funeral director submitting the request and, except as provided in subsection (B), either:

