

RECEIVED

OCT 15 2019

BUREAU OF
LEGISLATIVE RESEARCH

CLEAN COPY

RULE 34 REQUIREMENTS OF LICENSED PHYSICIANS COMPLETING DEATH
CERTIFICATES

ACA 520-18-601 requires physicians in the State of Arkansas to comply with the requirements when completing death certificates. ACA §17-95-409 (a)(2)(P) provides that the Arkansas State Medical Board may revoke or suspend a license of physicians, or impose other sanctions as provided by law, if a licensed physician violates a rule of the Board.

- A. A licensed Physician who has been in charge of a patient's care for the illness or condition that resulted in the death of the patient shall complete, sign and return to the funeral director the medical certification on the death certificate within three (3) business days after receipt of the death certificate, except when an inquiry is required by law pursuant to ACA §12-12-315 as set forth herein:
- (l) The county coroner, prosecuting attorney, and either the county sheriff or the chief of police of the municipality in which the death of a human being occurs shall be promptly notified by any physician, law enforcement officer, undertaker or embalmer, jailer, or coroner or by any other person present with knowledge of the death if:
 - (A) The death appears to be caused by violence or appears to be the result of a homicide or a suicide or to be accidental;
 - (B) The death appears to be the result of the presence of drugs or poisons in the body;
 - (C) The death appears to be the result of a motor vehicle accident, or the body was found in or near a roadway or railroad;
 - (D) The death appears to be the result of a motor vehicle accident and there is no obvious trauma to the body;
 - (E) The death occurs while the person is in a state mental institution or hospital and there is no previous medical history to explain the death, or while the person is in police custody or jail other than a jail operated by the Department of Correction;
 - (F) The death appears to be the result of a fire or an explosion;
 - (G) The death of a minor child appears to indicate child abuse prior to death;
 - (H) Human skeletal remains are recovered or an unidentified deceased person is discovered;
 - (I) Postmortem decomposition exists to the extent that an external examination of the corpse cannot rule out injury, or in which the circumstances of death cannot rule out the commission of a crime;
 - (J) The death appears to be the result of drowning;
 - (K) The death is of an infant or a minor child under eighteen (18) years of age;
 - (L) The manner of death appears to be other than natural;
 - (M) The death is sudden and unexplained;
 - (N) The death occurs at a work site;
 - (O) The death is due to a criminal abortion;

- (P) The death is of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or, in prediagnosed terminal or bedfast cases, within thirty (30) days;
 - (Q) A person is admitted to a hospital emergency room unconscious and is unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or, in cases in which the decedent had a prediagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital;
 - (R) The death occurs in the home; or
 - (S) (i) The death poses a potential threat to public health or safety.
 - (ii) Upon receiving notice of a death that poses a potential threat to public health or safety, the county coroner shall immediately notify the Department of Health.
- (2) Nothing in this section shall be construed to require an investigation, autopsy, or inquest in any case in which death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means in accordance with the tenets and practices of a well-recognized church or religious denomination.
- With regard to any death in a correctional facility, the county coroner and the State Medical Examiner shall be notified, and when previous medical history does not exist to explain the death, the Department of Arkansas State Police shall be notified.

Or pursuant to ACA §12-12-318; or pursuant to ACA §14-15-301 *et seq* as set forth herein:

When a death is reported to a coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including, but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death.

- B. In the absence of the physician or with his or her approval, the certificate may be completed and signed by his or her associate physician, by the chief medical officer of the institution in which death occurred, by the pathologist who performed an autopsy upon the decedent, or by a registered nurse as provided in this subsection c, if the individual has access to the medical history of the case and has reviewed the coroner's report if required and if the death is due to natural causes. The individual completing the cause-of-death section of the certificate shall attest to its accuracy either by a signature or by approved electronic process.
- C. (i) If a physician refuses or otherwise fails to complete, sign, and return the medical certification to the funeral director within three (3) business days as required by subdivision (A) of this section, the funeral director may notify the board of the failure to complete, sign or return the medical certification within three (3) business days as required by subdivision (A) of this section.

(ii) The board shall assess against a physician described in subdivision (c) of this section a fine not to exceed two hundred fifty dollars (\$250) unless the physician shows good cause for the refusal or failure.

D. Except as provided herein below, a medical certification shall be completed using the electronic process or system designated by the division except:

(i) Upon request, the Health Department may grant a waiver from the requirement of subdivision (c)(1)(A)(ii) of this section that a medical certification be completed using an electronic process or system if a person requesting the waiver:

(A) Lacks reliable internet connectivity sufficient to ensure access and secure submission to the electronic system;

(B) Has not received requested training or technical assistance from the Department of Health on the use of the system and correct submission procedure;

(C) Regularly signs fewer than five (5) medical certifications per month; or

(D) Shows other good cause for a waiver as determined by the Department of Health in its discretion.

(2) A physician who is granted a waiver under subdivision (D) of this section:

(A) Shall not be fined under subsection (c)(ii) of this section for failure to submit medical certification using an electronic process or system; and

(B) Is liable for failure to submit a medical certification in a timely manner under subdivision (C) of this section.

RECEIVED

OCT 15 2019

BUREAU OF
LEGISLATIVE RESEARCH

MARKUP

RULE 34 REQUIREMENTS OF LICENSED PHYSICIANS COMPLETING DEATH
CERTIFICATES

ACA 520-18-601 requires physicians in the State of Arkansas to comply with the requirements when completing death certificates. ACA §17-95-409 (a)(2)(P) provides that the Arkansas State Medical Board may revoke or suspend a license of physicians, or impose other sanctions as provided by law, if a licensed physician violates a rule of the Board.

- A. A licensed Physician who has been in charge of a patient's care for the illness or condition that resulted in the death of the patient shall complete, sign and return to the funeral director the medical certification on the death certificate within ~~two (2)~~ three (3) business days after receipt of the death certificate, except when an inquiry is required by law pursuant to ACA §12-12-315 as set forth herein:
- (I) The county coroner, prosecuting attorney, and either the county sheriff or the chief of police of the municipality in which the death of a human being occurs shall be promptly notified by any physician, law enforcement officer, undertaker or embalmer, jailer, or coroner or by any other person present with knowledge of the death if:
 - (A) The death appears to be caused by violence or appears to be the result of a homicide or a suicide or to be accidental;
 - (B) The death appears to be the result of the presence of drugs or poisons in the body;
 - (C) The death appears to be the result of a motor vehicle accident, or the body was found in or near a roadway or railroad;
 - (D) The death appears to be the result of a motor vehicle accident and there is no obvious trauma to the body;
 - (E) The death occurs while the person is in a state mental institution or hospital and there is no previous medical history to explain the death, or while the person is in police custody or jail other than a jail operated by the Department of Correction;
 - (F) The death appears to be the result of a fire or an explosion;
 - (G) The death of a minor child appears to indicate child abuse prior to death;
 - (H) Human skeletal remains are recovered or an unidentified deceased person is discovered;
 - (I) Postmortem decomposition exists to the extent that an external examination of the corpse cannot rule out injury, or in which the circumstances of death cannot rule out the commission of a crime;
 - (J) The death appears to be the result of drowning;
 - (K) The death is of an infant or a minor child under eighteen (18) years of age;
 - (L) The manner of death appears to be other than natural;
 - (M) The death is sudden and unexplained;
 - (N) The death occurs at a work site;
 - (O) The death is due to a criminal abortion;

- (P) The death is of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or, in prediagnosed terminal or bedfast cases, within thirty (30) days;
 - (Q) A person is admitted to a hospital emergency room unconscious and is unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or, in cases in which the decedent had a prediagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital;
 - (R) The death occurs in the home; or
 - (S) (i) The death poses a potential threat to public health or safety.
(ii) Upon receiving notice of a death that poses a potential threat to public health or safety, the county coroner shall immediately notify the Department of Health.
- (2) Nothing in this section shall be construed to require an investigation, autopsy, or inquest in any case in which death occurred without medical attendance solely because the deceased was under treatment by prayer or spiritual means in accordance with the tenets and practices of a well-recognized church or religious denomination.
- With regard to any death in a correctional facility, the county coroner and the State Medical Examiner shall be notified, and when previous medical history does not exist to explain the death, the Department of Arkansas State Police shall be notified.

Or pursuant to ACA §12-12-318; or pursuant to ACA §14-15-301 *et seq* as set forth herein:

When a death is reported to a coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including, but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death.

- B. In the absence of the physician or with his or her approval, the certificate may be completed and signed by his or her associate physician, by the chief medical officer of the institution in which death occurred, by the pathologist who performed an autopsy upon the decedent, or by a registered nurse as provided in this subsection c, if the individual has access to the medical history of the case and has reviewed the coroner's report if required and if the death is due to natural causes. The individual completing the cause-of-death section of the certificate shall attest to its accuracy either by a signature or by approved electronic process.
- C. (i) If a physician refuses or otherwise fails to complete, sign, and return the medical certification to the funeral director within three (3) business days as required by subdivision (A) of this section, the funeral director may notify the board of the failure to complete, sign or return the medical certification within three (3) business days as required by subdivision (A) of this section.

(ii) The board shall assess against a physician described in subdivision (c) of this section a fine not to exceed two hundred fifty dollars (\$250) unless the physician shows good cause for the refusal or failure.

D. Except as provided herein below, a medical certification shall be completed using the electronic process or system designated by the division, except:

(i) Upon request, the Health Department may grant a waiver from the requirement of subdivision (c)(1)(A)(ii) of this section that a medical certification be completed using an electronic process or system if a person requesting the waiver:

(A) Lacks reliable internet connectivity sufficient to ensure access and secure submission to the electronic system;

(B) Has not received requested training or technical assistance from the Department of Health on the use of the system and correct submission procedure;

(C) Regularly signs fewer than five (5) medical certifications per month; or

(D) Shows other good cause for a waiver as determined by the Department of Health in its discretion.

(2) A physician who is granted a waiver under subdivision (D) of this section:

(A) Shall not be fined under subsection (c)(ii) of this section for failure to submit medical certification using an electronic process or system; and

(B) Is liable for failure to submit a medical certification in a timely manner under subdivision (C) of this section.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H4/1/19

A Bill

HOUSE BILL 1815

5 By: Representatives Perry, Capp, V. Flowers, Richardson
6 By: Senators G. Leding, D. Wallace
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE DEATH CERTIFICATE REGISTRATION
10 PROCESS FOR THE SIGNATURE OF THE MEDICAL CERTIFICATE
11 OF DEATH; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE DEATH CERTIFICATE
16 REGISTRATION PROCESS FOR THE SIGNATURE OF
17 THE MEDICAL CERTIFICATE OF DEATH.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 20-18-601(c)-(f), as amended by Acts 2019,
23 No. 315, concerning death certification registration and the medical
24 certification of death, is amended to read as follows:

25 (c)(1)(A)(i) The medical certification shall be completed, signed, and
26 returned to the funeral director within ~~two (2)~~ three (3) business days after
27 receipt of the death certificate by the physician in charge of the patient's
28 care for the illness or condition that resulted in death, except when inquiry
29 is required by § 12-12-315, § 12-12-318, or § 14-15-301 et seq.

30 (ii) Except as provided in subsection (i) of this section,
31 a medical certification shall be completed using the electronic process or
32 system designated by the division.

33 (B)(i) In the absence of the physician or with his or her
34 approval, the certificate may be completed and signed by his or her associate
35 physician, by the chief medical officer of the institution in which death
36 occurred, by the pathologist who performed an autopsy upon the decedent, or



1 by a registered nurse as provided in this subsection, if the individual has
2 access to the medical history of the case and has reviewed the coroner's
3 report, if required, and if the death is due to natural causes.

4 (ii) The individual completing the cause-of-death
5 section of the certificate shall attest to its accuracy *either by a signature*
6 *as authorized under subsection (i) of this section* or by approved electronic
7 process.

8 (2)(A) The Arkansas State Medical Board shall enforce by rule
9 subdivision (c)(1) of this section concerning the time period in which the
10 medical certification shall be executed.

11 (B)(i) If a physician refuses or otherwise fails to
12 complete, sign, and return the medical certification to the funeral director
13 within *three (3) business days as required by subdivision (c)(1) of this*
14 *section, the funeral director may notify the board of the failure to*
15 *complete, sign, or return the medical certification within three (3) business*
16 *days as required by subdivision (c)(1) of this section.*

17 (ii) The board shall assess against a physician
18 described in subdivision (c)(2)(B)(i) of this section a fine not to exceed
19 two hundred fifty dollars (\$250) unless the physician shows good cause for
20 the refusal or failure.

21 (3) A registered nurse employed by the attending hospice may
22 complete and sign the medical certification of death and pronounce death for
23 a patient who is terminally ill, whose death is anticipated, who is receiving
24 services from a hospice program certified under § 20-7-117, and who dies in a
25 hospice inpatient program or as a hospice patient in a nursing home or
26 hospital.

27 (4)(A) If the hospice patient dies in the home, the registered
28 nurse may make pronouncement of death.

29 (B) However, the coroner and the chief law enforcement
30 official of the county or municipality where death occurred shall be
31 immediately notified in accordance with § 12-12-315.

32 (5)(A) The Department of Health shall provide hospitals, nursing
33 homes, and hospices with the appropriate death certificate forms, which will
34 be made available to the certifier of death through an approved electronic
35 process or system or another process designated by the division under
36 subsection (i) of this section.

1 (B) When death occurs outside these health facilities, the
2 funeral home shall provide the death certificate to the certifier of death
3 through an approved electronic process or system or another process
4 designated by the division under subsection (1) of this section.

5 (d)(1) If the cause of death appears to be other than the illness or
6 condition for which the deceased was being treated or if inquiry is required
7 by either of the laws referred to in subsection (c) of this section, the case
8 shall be referred to the office of the State Medical Examiner or coroner in
9 the jurisdiction where the death occurred or the body was found for
10 investigation to determine and certify the cause of death through an approved
11 electronic process or system or another process designated by the division
12 under subsection (1) of this section.

13 (2) If the State Medical Examiner or county coroner determines
14 that the case does not fall within his or her jurisdiction, he or she shall
15 within twenty-four (24) hours refer the case back to the physician for
16 completion of the medical certification.

17 (e)(1) When inquiry is required by either of the laws referred to in
18 subsection (c) of this section, the State Medical Examiner or coroner in the
19 jurisdiction where the death occurred or the body was found shall determine
20 the cause of death and shall complete and sign the medical certification
21 within forty-eight (48) hours after taking charge of the case.

22 (2) A medical certification completed and signed by the State
23 Medical Examiner or coroner shall be completed using an approved electronic
24 process or system or another process designated by the division under
25 subsection (1) of this section.

26 (f)(1) ~~If the cause of death cannot be determined within forty-eight~~
27 ~~(48) hours after death~~ the time periods under subsections (c) or (e) of this
28 section, the medical certification shall be completed as provided by rule.

29 (2) The attending physician, State Medical Examiner, or county
30 coroner shall give the funeral director or person acting as the funeral
31 director notice of the reason for the delay, and final disposition of the
32 dead body shall not be made until authorized by the attending physician or
33 State Medical Examiner or county coroner.

34
35 SECTION 2. Arkansas Code § 20-18-601, concerning death certification
36 registration and the medical certification of death, is amended to add an

1 additional subsection to read as follows:

2 (i)(1) Upon request, the department may grant a waiver from the
3 requirement of subdivision (c)(1)(A)(ii) of this section that a medical
4 certification by completed using an electronic process or system if a person
5 requesting the waiver:

6 (A) Lacks reliable internet connectivity sufficient to
7 ensure access and secure submission to the electronic system;

8 (B) Has not received requested training or technical
9 assistance from the division on the use of the system and correct submission
10 procedure;

11 (C) Regularly signs fewer than five (5) medical
12 certifications per month; or

13 (D) Shows other good cause for a waiver as determined by
14 the department in its discretion.

15 (2) A physician who is granted a waiver under subdivision (i)(1)
16 of this section:

17 (A) Shall not be fined under subsection (c)(2)(B) of this
18 section for failure to submit medical certification using an electronic
19 process or system; and

20 (B) Is liable for failure to submit a medical
21 certification in a timely manner under subdivision (c)(1)(A)(i) of this
22 section.

23
24 /s/Perry

25
26
27 APPROVED: 4/12/19
28
29
30
31
32
33
34
35
36