

## CHAPTER 707

### DEATHS AND BURIALS

#### §2841. Registration of fetal deaths

Except as authorized by the department or as required under section 1596, a certificate of each death of a fetus of 20 or more weeks of gestation that occurs in this State must be filed with the State Registrar of Vital Statistics or the clerk of the municipality where the delivery occurred within 14 days after delivery and prior to removal of the fetus from the State. [PL 2013, c. 14, §1 (AMD).]

**1. Certificate filed by funeral director.** The funeral director or other authorized person in charge of the disposition of the dead fetus or its removal from the State is responsible for filing the certificate. In the absence of such a person, the physician or other person in attendance at or after the delivery is responsible for filing the certificate. The funeral director or authorized person or physician or other person in attendance at or after delivery shall obtain the personal data from the best qualified person or source available and shall present the certificate to the person responsible for completing the medical certification of the cause of death.

[PL 2009, c. 601, §24 (AMD).]

**2. Medical certificate by physician.** The medical certification shall be completed and signed within 5 days after delivery by the physician in attendance at or after the delivery, except when an inquiry as to the cause of fetal death is required by law.

[PL 1989, c. 274, §3 (AMD).]

**3. Medical certificate by medical examiner.** When the fetal death occurs without medical attendance upon the mother at or after delivery, or when inquiry as to the cause of fetal death is required by law, the medical examiner shall complete and sign the medical certification within 5 days after delivery. A certification need not be completed before the remains are ready for release.

[PL 1989, c. 274, §3 (AMD).]

**4. Certificate from hospital or institution.** When the fetal death occurs in a hospital or an institution, the person in charge of the hospital or institution or the person authorized to obtain the medical data shall prepare the certificate, certify by signature or by electronic process that the fetal death occurred at the place and time and on the date stated and file the certificate as directed in this section. The physician or other person in attendance shall provide the medical information required on the certificate in a timely fashion, as specified by department rule.

[PL 2013, c. 14, §2 (NEW).]

#### SECTION HISTORY

PL 1977, c. 232, §1 (AMD). PL 1979, c. 363, §5 (AMD). PL 1989, c. 274, §§2,3 (AMD). RR 2009, c. 2, §54 (COR). PL 2009, c. 601, §24 (AMD). PL 2013, c. 14, §§1, 2 (AMD).

#### §2842. Registration of deaths

Except as authorized by the department, a certificate of each death that occurs in this State must be filed with the State Registrar of Vital Statistics or clerk of the municipality where death occurred within a reasonable period of time, as specified by department rule, after the day on which death occurred and prior to the removal of the body from the State. [PL 2009, c. 601, §25 (AMD).]

**1. Certificate filed by funeral director.** The funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State is responsible for filing the certificate. The funeral director or authorized person shall obtain the personal data from the best qualified person or source available.

[PL 2009, c. 601, §25 (AMD).]

**2. Medical certificate by physician, nurse practitioner or physician assistant.** The medical certification of the cause of death must be completed and signed in a timely manner, as specified by department rule, by a physician, nurse practitioner or physician assistant authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department rules and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the health care provider in charge of the patient's care or another health care provider designated by the health care provider in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the health care provider in charge or another health care provider designated by the health care provider in charge shall examine the body prior to completing the certification of death process. Any health care provider who fails to complete the medical certification of the cause of death fully, in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section must be reported to the Board of Licensure in Medicine, the Board of Osteopathic Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Health and Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and does not include nutrition and hydration. [PL 2001, c. 574, §26 (AMD).]

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending health care provider, result in death within a short time. [PL 2005, c. 359, §1 (AMD).]

C. "Health care provider" means a physician authorized to practice in this State, nurse practitioner or physician assistant. [PL 2007, c. 56, §1 (AMD).]

D. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31. [PL 2005, c. 359, §1 (NEW).]

E. "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor. [PL 2007, c. 56, §1 (NEW).]

[PL 2009, c. 601, §25 (AMD).]

**2-A. Medical certification.** Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician, nurse practitioner or physician assistant was the attending health care provider, the medical certification of the cause of death may be completed and signed by a physician, nurse practitioner or physician assistant authorized to practice at the United States Department of Veterans Affairs at Togus or at another federal medical facility within the State or by a physician, an advanced practice registered nurse or physician assistant licensed to practice in New Hampshire, Vermont or Massachusetts who, at the request of the Chief Medical Examiner, is willing to do so.

[PL 2009, c. 601, §25 (AMD).]

**3. Medical certificate by medical examiner or the Office of Chief Medical Examiner.** When a death occurs under circumstances that make it a medical examiner case as defined in section 3025, or when inquiry as to the cause of death is required by law, the medical examiner or the Office of Chief Medical Examiner shall complete the medical certification of the cause of death as specified by department rule and sign the death certificate. A certification need not be completed before the remains are ready for release.

The medical examiner or the Office of Chief Medical Examiner is responsible for the identity of the deceased and the time, date, place, cause, manner and circumstances of death on the death certificate. Entries may be left "pending" if further study is needed; or, at the specific direction of the Attorney General relative to cases under investigation by the Attorney General's office, entries must be left "withheld" until such time as the Attorney General, in the Attorney General's sole discretion, determines that any criminal investigation and prosecution will not be harmed by public disclosure of such information. Notwithstanding section 2706, subsection 4, unless directed otherwise by the Attorney General as specified in this subsection, this information for which the medical examiner is responsible may be made available to the general public by the Office of Chief Medical Examiner.

[PL 2017, c. 475, Pt. A, §30 (AMD).]

**4. Correction of errors on death statistic records filed under chapter 711.** Certificates of death in medical examiner cases, as defined in section 3025, may be completed or amended at any time by means described in rule by the department to the Office of Chief Medical Examiner. Either the Chief Medical Examiner or the medical examiner assigned to the case may sign the forms or submit an electronic amendment or file a certificate using the electronic death registration system in accordance with section 2847. A person authorized by the Chief Medical Examiner may amend a certificate of death with respect to the time, date, place and circumstances of death. The medical examiner assigned shall submit the form or electronic amendment to the Office of Chief Medical Examiner for filing with the State Registrar of Vital Statistics. These forms or electronic amendments may be filed at any time after death and need not include a summary description of the evidence in support of the completion or amendment.

[PL 2017, c. 475, Pt. A, §30 (AMD).]

**5. Correction of certificate of death.** A certificate of death filed in accordance with this section may be completed or amended at any time by means described in rules adopted by the department. The health care provider who certified the death in accordance with subsection 2-A may sign the forms, submit an electronic amendment or file a certificate using the electronic death registration system in accordance with section 2847. A health care provider may amend a certificate of death with respect to the time, date, place and circumstances of death. Forms or electronic amendments may be filed at any time after death.

[PL 2019, c. 340, §16 (NEW).]

#### SECTION HISTORY

PL 1977, c. 232, §2 (AMD). PL 1977, c. 382 (AMD). PL 1979, c. 538, §1 (AMD). PL 1985, c. 611, §§2,3 (AMD). PL 1987, c. 72 (AMD). PL 1987, c. 296, §§1,2 (AMD). PL 1987, c. 329, §1 (AMD). PL 1987, c. 769, §A75 (AMD). PL 1993, c. 600, §§B21,22 (AMD). PL 2001, c. 574, §§26,27 (AMD). PL 2003, c. 74, §§1,2 (AMD). PL 2003, c. 433, §2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 359, §§1,2 (AMD). PL 2007, c. 56, §§1, 2 (AMD). PL 2009, c. 601, §25 (AMD). PL 2013, c. 31, §1 (AMD). PL 2017, c. 475, Pt. A, §30 (AMD). PL 2019, c. 340, §16 (AMD).

#### §2842-A. Identification of dead human bodies with communicable diseases

The department shall promulgate rules providing for notification to funeral directors or other authorized agents in charge of the disposition of dead human bodies in cases when the body has been diagnosed as having a communicable disease. [PL 1987, c. 811, §20 (NEW).]

Notification pursuant to this section is not a violation of this Title or Title 5, chapter 501. [PL 1987, c. 811, §20 (NEW).]

#### SECTION HISTORY

PL 1987, c. 811, §20 (NEW).

#### §2842-B. Native American human remains

**1. Transfer of remains.** Except as provided in subsections 2 and 3, a person or entity who possesses any human remains identified as Native American human remains shall transfer the remains to the intertribal repatriation organization that is appointed by the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet Indians and Aroostook Band of Micmacs for reburial. The intertribal repatriation organization shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the intertribal repatriation organization shall transfer the remains to the next of kin.

[PL 2009, c. 601, §26 (AMD).]

**2. Medical Examiner cases.** In cases within the jurisdiction of the Medical Examiner Act, the Chief Medical Examiner has authority over Native American human remains until the remains are no longer required for legal purposes. At that time, the Chief Medical Examiner shall make reasonable inquiry to locate the next of kin of the deceased. If next of kin are located, the Chief Medical Examiner shall release the remains to the next of kin of the deceased. If no next of kin are located, the remains must be released to the intertribal repatriation organization for reburial.

[PL 2009, c. 601, §26 (AMD).]

**3. Native American Graves Protection and Repatriation Act.** Subsection 1 does not apply to any human remains or any person or entity subject to the Native American Graves Protection and Repatriation Act, 25 United States Code, Chapter 32.

[PL 2001, c. 601, §1 (NEW).]

**4. Memorandum of understanding.** The Chief Medical Examiner, the Maine Historic Preservation Commission and the Maine State Museum shall enter into a memorandum of understanding concerning the disposition of human remains in the possession of the Chief Medical Examiner that are subject to the Native American Graves Protection and Repatriation Act.

[PL 2001, c. 601, §1 (NEW).]

#### SECTION HISTORY

PL 1993, c. 738, §C5 (NEW). PL 2001, c. 601, §1 (RPR). PL 2009, c. 601, §26 (AMD).

#### §2843. Permits for final disposition of dead human bodies

Except as authorized by the department, a dead human body may not be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the State Registrar of Vital Statistics or the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located as specified by department rule. The permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, as long as the requirements of Title 32, section 1405 are met in appropriate cases. The permit may not be issued to anyone other than a funeral director until the state registrar or the clerk of the municipality receives a medical certificate that has been signed by a physician or a medical examiner that indicates that the physician or medical examiner has personally examined the body after death. A permit must also be issued if a nurse practitioner or physician assistant has signed the medical certificate indicating that the nurse practitioner or physician assistant has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner or physician assistant has personally examined the body after death. The

authorized person may transport a dead human body only upon receipt of this permit. [PL 2009, c. 601, §27 (AMD).]

The State Registrar of Vital Statistics or a municipal clerk may issue a permit for final disposition by cremation, burial at sea, use by medical science or removal from the State only upon receipt of a certificate of release by a duly appointed medical examiner as specified in Title 32, section 1405. [PL 2009, c. 601, §27 (AMD).]

The State Registrar of Vital Statistics or a municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner, attending physician assistant or medical examiner who will certify to the cause of death and present assurances that the attending physician, attending nurse practitioner, attending physician assistant or medical examiner has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible. [PL 2009, c. 601, §27 (AMD).]

**1. Permit for transportation.** Each dead human body transported into this State for final disposition must be accompanied by a permit issued by the duly constituted authority at the place of death. Such permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State. [PL 2009, c. 601, §27 (AMD).]

**2. Permit for disinterment or removal.** A dead human body may not be disinterred or removed from any vault or tomb until the person in charge of the disinterment or removal has obtained a permit from the State Registrar of Vital Statistics or from the clerk of the municipality where the dead human body is buried or entombed. The permit must be issued upon receipt of a notarized application signed by the next of kin of the deceased who verifies that the signer is the closest surviving known relative and, when any other family member of equal or greater legal or blood relationship or a domestic partner of the decedent also survives, that all such persons are aware of, and do not object to, the disinterment or removal. This subsection does not preclude a court of competent jurisdiction from ordering or enjoining disinterment or removal pursuant to section 3029 or in other appropriate circumstances. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare. [PL 2013, c. 20, §1 (AMD).]

**3. Permit for burial.** The person in charge of each burying ground or crematory in this State shall endorse, and provide the date the body was disposed of on, each such permit with which that person is presented, and return it to the State Registrar of Vital Statistics or to the clerk of the municipality in which such burying ground or crematory is located within 7 days after the date of disposition. If there is no person in charge of the burying ground, an official of the municipality in which the burying ground is located shall endorse, and provide the date the body was disposed of on, each such permit, and present it to the State Registrar of Vital Statistics or the clerk of the municipality. The funeral director or authorized person shall present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where death occurred and to the clerk who issued the permit. [PL 2013, c. 20, §1 (AMD).]

**3-A. Authorization for burial of cremated remains in public burying ground.** The State Registrar of Vital Statistics shall provide an authorization to be used for the purposes of this subsection. If cremated remains are buried in a public burying ground in the State, the person in charge of the public burying ground shall endorse and record the date the cremated remains were buried on an authorization for the remains and return the authorization to the State Registrar of Vital Statistics or to the clerk of the municipality in which the public burying ground is located within 7 days after the cremated remains

were buried. If there is no person in charge of the public burying ground, an official of the municipality in which the public burying ground is located shall endorse and record the date the cremated remains were buried on the authorization and present the authorization to the State Registrar of Vital Statistics or the clerk of the municipality. If an authorization is not returned to the State Registrar of Vital Statistics within 7 days after cremated remains were buried, the funeral director or authorized person may present a copy of the authorization, if the authorization has been endorsed, to the State Registrar of Vital Statistics or the clerk of the municipality where death occurred and to the clerk who issued the authorization.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorization" means the form or electronic process prescribed and furnished by the State Registrar of Vital Statistics for the purpose of recording the consent of an authorized person for the burial or removal of cremated remains in a public burying ground as specified by department rule. [PL 2019, c. 257, §1 (NEW).]

B. "Burial" means all manner of dispersal or deposit in or on the ground or in a structure. [PL 2019, c. 257, §1 (NEW).]

C. "Public burying ground" has the same meaning as in Title 13, section 1101-A, subsection 4. [PL 2019, c. 257, §1 (NEW).]

[PL 2019, c. 257, §1 (AMD).]

**4. Records.** Each municipality shall maintain a record of any endorsed permit received pursuant to subsection 3 or 3-A in the electronic death registration system described in section 2847. A copy of an endorsed permit must be made available to a member of the public upon a request made to the municipal clerk. The State Registrar of Vital Statistics may adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A to carry out the purposes of this subsection.

[PL 2019, c. 611, §1 (AMD).]

#### SECTION HISTORY

PL 1977, c. 232, §3 (AMD). PL 1985, c. 44 (AMD). PL 1985, c. 231, §§1-3 (AMD). PL 1985, c. 602 (AMD). PL 2001, c. 574, §28 (AMD). PL 2003, c. 672, §18 (AMD). PL 2005, c. 359, §§3,4 (AMD). PL 2007, c. 56, §§3, 4 (AMD). PL 2009, c. 601, §27 (AMD). PL 2013, c. 20, §1 (AMD). PL 2017, c. 101, §§1, 2 (AMD). PL 2017, c. 363, §1 (AMD). PL 2019, c. 257, §1 (AMD). PL 2019, c. 611, §1 (AMD).

#### §2843-A. Custody of remains of deceased persons

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "At-need funeral arrangements" means funeral arrangements made after death. [PL 1993, c. 609, §1 (NEW).]

B. "Custody and control" means the right to make all decisions, consistent with applicable laws, regarding the handling of a dead body, including, but not limited to, possession, at-need funeral arrangements, final disposition and disinterment. [PL 1993, c. 609, §1 (NEW).]

B-1. "Dead body" or "dead human body" means a body or fetus for which it reasonably can be determined that death occurred. [PL 2009, c. 601, §28 (NEW).]

C. "Estranged" means living in separate residences and having a relationship characterized by hostility or indifference. [PL 1993, c. 609, §1 (NEW).]

D. "Next of kin" means a person having the following relationship to the subject, in the following order of priority:

- (1) The spouse;
- (1-A) A domestic partner. For purposes of this section, "domestic partner" means the partner of the subject who:
- (a) Is a mentally competent adult;
  - (b) Had been legally domiciled with the subject for at least 12 months immediately preceding the death of the subject;
  - (c) Is not legally married to or legally separated from another individual;
  - (d) Was the sole partner of the subject; and
  - (e) Was jointly responsible with the subject for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property;
- (2) An adult son or daughter;
- (3) A parent;
- (4) An adult brother or sister;
- (5) An adult grandchild;
- (6) An adult niece or nephew who is the child of a brother or sister;
- (7) A maternal grandparent;
- (8) A paternal grandparent;
- (9) An adult aunt or uncle;
- (10) An adult first cousin;
- (11) Any other adult relative in descending order of blood relationship; or
- (12) If the subject is a veteran and has no known living spouse or adult relative, the Adjutant General or the Adjutant General's designee. For purposes of this paragraph, "veteran" has the same meaning as in section 2900, subsection 1, paragraph B. [PL 2015, c. 208, §1 (AMD).]
- E. "Subject" means the person whose remains are placed in the custody and control of another person pursuant to this section. [PL 1993, c. 609, §1 (NEW).]  
[PL 2015, c. 208, §1 (AMD).]

**2. Custody and control generally.** The custody and control of the remains of deceased residents of this State, dead bodies or dead human bodies are governed by the following provisions in the following order of priority:

- A. If the subject has designated another person to have custody and control in a written and signed document, custody and control belong to that designated person; [PL 2017, c. 475, Pt. A, §31 (RPR).]
- B. If the subject has not left a written and signed document designating a person to have custody and control, or if the person designated by the subject refuses custody and control, custody and control belong to the next of kin; and [PL 2017, c. 475, Pt. A, §31 (RPR).]
- C. If the next of kin is 2 or more persons with the same relationship to the subject, the majority of the next of kin have custody and control. If the next of kin cannot, by majority vote, make a decision regarding the subject's remains, the court shall make the decision upon petition under subsection 4, paragraph D. [PL 2017, c. 475, Pt. A, §31 (RPR).]

If a person who has the right of custody and control under this subsection does not exercise the rights and responsibilities of custody and control within 4 days after the death of the subject, custody and control belong to a person from the next lower level of priority as established in paragraphs A to C.

If a person who has custody and control under this subsection does not complete decision making regarding final disposition within 30 days after taking custody and control, a funeral director or practitioner of funeral service who has physical possession of the remains or dead body may bury the remains or dead body at the expense of the funeral director or practitioner.

A person who has been charged with murder, as described in Title 17-A, section 201, or manslaughter, as described in Title 17-A, section 203, subsection 1, paragraph B, forfeits the right of custody and control provided under this subsection; and a funeral director or practitioner of funeral service who is aware of the charges may not release the remains or a dead body to that person who has been charged with murder or manslaughter. If the charges against the person are dismissed or the person is acquitted of the charges before the final disposition takes place, the person regains the right of custody and control in the same position of priority established in this subsection.

The remains or a dead body is considered abandoned if no one takes custody and control of the remains or dead body for a period of 15 days. A funeral director or practitioner of funeral service who has physical possession of abandoned remains or an abandoned dead body may bury or cremate the remains or dead body. The funeral director or practitioner of funeral service may embalm or refrigerate abandoned remains or an abandoned dead body without authorization. A certificate of abandonment that indicates the means of disposition must be filed in the municipality where the death occurred.

[PL 2017, c. 475, Pt. A, §31 (RPR).]

**3. Estranged spouse or domestic partner.** Notwithstanding subsection 2, if the surviving spouse or surviving domestic partner and the subject were estranged at the time of death, the spouse or domestic partner may not have custody and control of the subject's remains. In these cases, custody and control belong to the next of kin following the spouse or domestic partner.

[PL 2003, c. 672, §20 (AMD).]

**4. Court determination.** Notwithstanding other provisions of this section, the court of probate for the residence of the deceased may award custody and control to the person determined by the court most fit and appropriate to carry out the responsibilities of custody and control, and may make decisions regarding the subject's remains if those having custody and control can not agree. The following provisions apply to court determinations under this subsection.

A. Before the subject's death, the subject or the subject's legal representative may file a petition regarding custody and control of the subject's remains. [PL 1993, c. 609, §1 (NEW).]

B. A relative of the subject may file a petition. [PL 1993, c. 609, §1 (NEW).]

C. A person who claims and establishes through evidence that that person has or had a closer personal relationship to the subject than the next of kin may file a petition, if that person lived with the subject and was not in the employ of the subject or the subject's family. [PL 1993, c. 609, §1 (NEW).]

D. If the next of kin is 2 or more persons with the same relationship to the subject, and the next of kin can not, by majority vote, make a decision regarding the subject's remains, 2 or more persons who have custody or control or a funeral director may file a petition asking the court to make a determination in the matter. The court shall consider the following in making its determination:

(1) The reasonableness and practicality of the proposed arrangements;

(2) The degree of the personal relationship between the subject and each of the 2 or more persons with custody and control;



- (3) The desires of the person or persons who are ready, able and willing to pay the costs of the arrangements;
- (4) The convenience and needs of other family and friends wishing to pay respect;
- (5) The expressed written desires of the subject; and
- (6) The degree to which the arrangements will allow maximum participation by all wishing to pay respect. [PL 1993, c. 609, §1 (NEW).]

[PL 1993, c. 609, §1 (NEW).]

**5. Wishes of subject.** If the subject has left written and signed instructions regarding funeral arrangements and disposal of the subject's remains, the person having custody and control shall abide by those wishes to the extent that the subject paid for those arrangements in advance or left resources for the purpose of carrying out those wishes.

[PL 1993, c. 609, §1 (NEW).]

**6. Effect of payment by others.** Except to the degree it must be considered by the court under subsection 4, paragraph D, the fact that a person other than the subject has paid or agreed to pay for all or part of arrangements does not give that person a greater right to custody and control than that person would otherwise have.

[PL 1993, c. 609, §1 (NEW).]

**7. Authority of personal representative.** The personal representative of the estate of the subject does not, by virtue of being the personal representative, have a greater right to custody and control than the person would otherwise have.

[PL 1993, c. 609, §1 (NEW).]

**8. Immunity.** A party, including but not limited to a funeral director or practitioner of funeral service, who, in good faith, acts upon the instructions of the party having custody and control is not liable for having carried out those instructions, may not be held civilly or criminally liable and is not subject to disciplinary action for acting in accordance with those instructions.

[PL 2015, c. 188, §1 (AMD).]

**9. Application.** This section does not apply to the disposition of the remains of a deceased person under chapter 709. This section does not diminish or otherwise alter the authority of a medical examiner or other official authorized under chapter 711. This section does not alter the rights and obligations of the decedent's next of kin under Title 18-C.

[PL 2017, c. 402, Pt. C, §49 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

**10. Funeral director or practitioner of funeral service.** The following provisions apply to the actions and liability of a funeral director or practitioner of funeral service, cemeteries and crematories and their employees.

A. If there is a dispute regarding custody and control, a funeral director or practitioner of funeral service may refuse to accept the remains or dead body, inter or otherwise dispose of the remains or dead body or complete funeral arrangements until the funeral director or practitioner of funeral service is provided with a court order under subsection 4 or a written agreement of the person who has custody and control. [PL 2011, c. 387, §3 (NEW).]

B. If there is a dispute regarding custody and control, pending a court determination under subsection 4 a funeral director or practitioner of funeral service who has physical possession of the remains or a dead body may embalm or refrigerate and shelter the remains or a dead body and may bill the estate of the subject for those costs, plus attorney's fees and court costs. [PL 2011, c. 387, §3 (NEW).]

C. A person who signs a statement of funeral goods and services, cremation authorization form or other authorization for disposition of the remains or a dead body is deemed to warrant the

truthfulness of the facts set forth in the document, including but not limited to the existence of custody and control and the identity of the subject. [PL 2011, c. 387, §3 (NEW).]

D. A funeral director or practitioner of funeral service, cemetery or crematory may rely on a statement of funeral goods and services, cremation authorization form or other authorization signed by a person who has custody and control of the remains or a dead body and may carry out the instructions provided for in the statement of funeral goods and services or on the form or authorization unless the funeral director or practitioner of funeral service, cemetery or crematory knows of objections from another person. [PL 2011, c. 387, §3 (NEW).]

E. A funeral director or practitioner of funeral service, cemetery or crematory is not required to independently investigate custody and control of the remains or a dead body or who is next of kin. [PL 2011, c. 387, §3 (NEW).]

F. Upon cremation of the remains or dead body, the crematory shall prepare a certificate of cremation signed and dated by the person in charge of the cremation indicating the date of cremation and the identity of the cremated remains or dead body as identified by the funeral director or practitioner of funeral service or the cremation authorization form, including the deceased person's full name, date and place of death, gender and veteran status. The crematory shall provide the certificate of cremation to the funeral director or practitioner of funeral service or the person who has custody and control of the remains or dead body. [PL 2017, c. 101, §3 (NEW).]

[PL 2017, c. 101, §3 (AMD).]

#### SECTION HISTORY

PL 1993, c. 609, §1 (NEW). PL 2003, c. 672, §§19,20 (AMD). PL 2009, c. 159, §1 (AMD). PL 2009, c. 601, §§28, 29 (AMD). PL 2011, c. 387, §§1-3 (AMD). PL 2015, c. 188, §1 (AMD). PL 2015, c. 208, §1 (AMD). PL 2017, c. 38, §1 (AMD). PL 2017, c. 70, §1 (AMD). PL 2017, c. 101, §3 (AMD). PL 2017, c. 402, Pt. C, §49 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2017, c. 475, Pt. A, §31 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

#### §2844. Subregistrars

The State Registrar of Vital Statistics or municipal clerk may appoint one or more suitable and proper persons in a municipality as subregistrars, who are authorized to issue permits for transportation and final disposition of dead human bodies in the same manner as is required of the state registrar or municipal clerk, as specified by department rule. The completed death certificate or report of death, upon which the permit is issued, together with a copy of the disposition of human remains permit must be forwarded to the municipal clerk at the earliest opening of the municipal office after the date of issue, and all permits by whomsoever issued must be returned to the municipal clerk as required by section 2843. The appointment of subregistrars must be made with reference to locality, so as to best suit the convenience of the inhabitants of the municipality, and such annual appointment must be in writing and recorded in the office of the state registrar or municipal clerk. The subregistrars in any municipality hold office at the pleasure of the state registrar or municipal clerk. [PL 2009, c. 601, §30 (AMD).]

#### SECTION HISTORY

PL 1985, c. 231, §4 (AMD). PL 1989, c. 54 (AMD). PL 2001, c. 574, §29 (AMD). PL 2009, c. 601, §30 (AMD).

#### §2845. Certificate of death typewritten or hand printed

A death certificate required to be filed under this chapter by an authorized person as described in section 2846 must be typewritten or legibly hand printed prior to such filing. [PL 2011, c. 371, §1 (AMD); PL 2011, c. 371, §3 (AFF).]

#### SECTION HISTORY

PL 1973, c. 252 (NEW). PL 2001, c. 574, §30 (AMD). PL 2003, c. 74, §3 (AMD). PL 2011, c. 371, §1 (AMD). PL 2011, c. 371, §3 (AFF).

**§2846. Authorized person**

For the purposes of this chapter, the "authorized person" responsible for obtaining or filing a permit or certificate means a member of the immediate family of the deceased, the domestic partner of the deceased, a person authorized in writing by a member of the immediate family of the deceased if no member of the immediate family of the deceased wishes to assume the responsibility or by the domestic partner of the deceased if the domestic partner does not wish to assume the responsibility or, in the absence of immediate family or a known domestic partner, a person authorized in writing by the deceased. For purposes of this section, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare. [PL 2003, c. 672, §21 (AMD).]

For the purposes of this chapter, "nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31. [PL 2005, c. 359, §5 (NEW).]

For the purposes of this chapter, "health care provider" means a physician, a nurse practitioner or a physician assistant. [PL 2007, c. 56, §5 (AMD).]

For the purposes of this chapter, "physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor. [PL 2007, c. 56, §6 (NEW).]

**SECTION HISTORY**

PL 1977, c. 232, §4 (NEW). PL 1985, c. 17 (AMD). PL 2003, c. 672, §21 (AMD). PL 2005, c. 359, §5 (AMD). PL 2007, c. 56, §§5, 6 (AMD).

**§2847. Electronic death registration system**

A person authorized to complete or file a certificate of death pursuant to section 2842 shall use the electronic death registration system maintained by the State Registrar of Vital Statistics. This section does not apply to an authorized person under section 2846. The State Registrar of Vital Statistics shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2017, c. 37, §1 (AMD); PL 2017, c. 37, §2 (AFF).]

**SECTION HISTORY**

PL 2011, c. 371, §2 (NEW). PL 2017, c. 37, §1 (AMD). PL 2017, c. 37, §2 (AFF).

**§2848. Registering a presumed death**

When a death is presumed to have occurred in the State but the body has not been located, the State Registrar of Vital Statistics shall register a death in accordance with this section upon receipt of a certified copy of an order of a court issued in accordance with Title 18-C, section 1-106, subsection 5. [PL 2017, c. 402, Pt. C, §50 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

**1. Required information.** In order to register a death on the basis of a court order, the court order must include:

- A. The decedent's full legal name; [PL 2015, c. 193, §2 (NEW).]
- B. The date of death, as determined from the evidence presented; [PL 2015, c. 193, §2 (NEW).]

C. The municipality, county and place of death, as determined from the evidence presented; [PL 2015, c. 193, §2 (NEW).]

D. The decedent's address, including street address, municipality, county, state and zip code at the time of death; [PL 2015, c. 193, §2 (NEW).]

E. The decedent's marital status at the time of death; [PL 2015, c. 193, §2 (NEW).]

F. The given name of the decedent's surviving spouse, if any; and [PL 2015, c. 193, §2 (NEW).]

G. If known, information necessary to complete the medical certification including the cause and manner of death. If the death occurred from an injury, the court order must include information on how and when the injury occurred. If such information is not known, the order must indicate the lack of available information. [PL 2015, c. 193, §2 (NEW).]

[PL 2015, c. 193, §2 (NEW).]

**2. Death certificate; identification of court order.** A death certificate issued pursuant to this section must identify the court that issued the order on which the death certificate is based and include the date of the court order.

[PL 2015, c. 193, §2 (NEW).]

**3. Record marked "presumptive."** The record of a death registered pursuant to this section must be marked "presumptive."

[PL 2015, c. 193, §2 (NEW).]

#### SECTION HISTORY

PL 2015, c. 193, §2 (NEW). PL 2017, c. 402, Pt. C, §50 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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