

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. MONTGOMERY, DUANE, HASSELL-THOMPSON, KRUEGER, OPPENHEIMER, PARKER, PERKINS, STEWART-COUSINS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to death certificates

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1     Section 1. Section 4100 of the public health law is amended by adding  
2     a new subdivision 4 to read as follows:  
3     4. CERTIFIED NURSE PRACTITIONERS COMPLETING A DEATH CERTIFICATE FOR A  
4     DEATH OCCURRING IN THE CITY OF NEW YORK SHALL HAVE THE SAME AUTHORITY  
5     AND RESPONSIBILITY TO COMPLETE THE CERTIFICATE AS THEY WOULD HAVE IF THE  
6     DEATH OCCURRED OUTSIDE SUCH CITY; PROVIDED, HOWEVER, THAT SUCH RESPONSIBILITY SHALL BE EXERCISED IN ACCORDANCE WITH THE RULES AND REGULATIONS  
7     OF THE CITY OF NEW YORK.  
8  
9     S 2. Section 4104 of the public health law, as amended by chapter 435  
10    of the laws of 2008, is amended to read as follows:  
11    S 4104. Vital statistics; application of article. The provisions of  
12    this article except for the provisions contained in paragraph (i) of  
13    subdivision two AND SUBDIVISION FOUR of section four thousand one  
14    hundred, section four thousand one hundred three, subdivision two of  
15    section four thousand one hundred thirty-five, section four thousand one  
16    hundred thirty-five-b, subdivision eight of section four thousand one  
17    hundred seventy-four, paragraphs (b) and (e) of subdivision one of  
18    section four thousand one hundred thirty-eight, subdivision eleven of  
19    section four thousand one hundred thirty-eight-c, and section four thousand one hundred seventy-nine of this article, shall not apply to the  
20    city of New York.  
21  
22    S 3. Subdivision 4 of section 4141 of the public health law, paragraph  
23    (d) as added by chapter 413 of the laws of 2005, is amended to read as  
24    follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 4. (a) The medical certificate shall be made, dated, and signed by the  
2 physician OR NURSE PRACTITIONER, if any, last in attendance on the  
3 deceased.

4 (b) Indefinite terms, denoting only symptoms of disease or conditions  
5 resulting from disease, shall not be held sufficient.

6 (c) Any certificate stating the cause of death in terms which the  
7 commissioner [shall have declared] DECLARES indefinite[,] shall be  
8 returned to the physician, NURSE PRACTITIONER, or person making the  
9 medical certificate[,] for correction and more definite statement.

10 (d) Where a death is caused by an opioid overdose, such information  
11 shall be indicated, including any related information as the commission-  
12 er may require.

13 S 4. Section 4141-a of the public health law, as added by chapter 402  
14 of the laws of 1968, is amended to read as follows:

15 S 4141-a. Death certificate; duties of hospital administrator. When a  
16 death occurs in a hospital, except in those cases where certificates are  
17 issued by coroners or medical examiners, the person in charge of such  
18 hospital or his OR HER designated representative shall promptly present  
19 the certificate to the physician OR NURSE PRACTITIONER in attendance, or  
20 a physician OR NURSE PRACTITIONER acting in his OR HER behalf, who shall  
21 promptly certify to the facts of death, provide the medical information  
22 required by the certificate, sign the medical certificate of death, and  
23 thereupon return such certificate to such person, so that the seventy-  
24 two hour registration time limit prescribed in section four thousand one  
25 hundred forty of this [chapter] TITLE can be met.

26 S 5. Subdivision (b) of section 4142 of the public health law, as  
27 amended by chapter 402 of the laws of 1968, is amended to read as  
28 follows:

29 (b) present the certificate promptly to the attending physician OR  
30 NURSE PRACTITIONER, who shall forthwith certify to the facts of death,  
31 provide the medical information required by the certificate and sign the  
32 medical certificate of death, or to the coroner or medical examiner in  
33 those cases where so required by this article or, when a death occurs in  
34 a hospital, except in those cases where certificates are issued by  
35 coroners or medical examiners, to the person in charge of such hospital  
36 or his OR HER designated representative, who shall obtain the medical  
37 certificate of death as prescribed in section four thousand one hundred  
38 forty-one-a of this [chapter] TITLE;

39 S 6. Paragraph (b) of subdivision 2 of section 4144 of the public  
40 health law, as amended by chapter 188 of the laws of 1997, is amended to  
41 read as follows:

42 (b) Verbal permission to remove a body of a deceased person from the  
43 county in which death occurred or the body was found to a non-adjacent  
44 county within the state of New York, as provided in subdivision one  
45 [hereof] OF THIS SECTION, shall be issued by the said registrar of vital  
46 statistics, upon request by telephone of a licensed funeral director or  
47 undertaker who holds a certificate of death signed by the attending  
48 physician OR NURSE PRACTITIONER, showing THAT the death resulted from  
49 natural causes[,] and was not a result of accidental, suicidal, homici-  
50 dal or other external causes.

51 S 7. The section heading and subdivisions 2, 3 and 4 of section 4161  
52 of the public health law, the section heading and subdivision 4 as  
53 amended by chapter 402 of the laws of 1968, subdivision 2 as amended by  
54 chapter 884 of the laws of 1972, and subdivision 3 as amended by chapter  
55 388 of the laws of 1968, are amended to read as follows:

1 Fetal death certificates; form and content; physicians, NURSE PRACTI-  
2 TIONERS, midwives, and hospital administrators.

3 2. In each case where a physician OR NURSE PRACTITIONER was in attend-  
4 ance at[,] or after[,] a fetal death, it [shall be] IS the duty of such  
5 physician OR NURSE PRACTITIONER to certify to the birth and to the cause  
6 of death on the fetal death certificate. Where a nurse-midwife was in  
7 attendance at a fetal death it [shall be] IS the duty of such nurse-mid-  
8 wife to certify to the birth but, HE OR she shall not certify to the  
9 cause of death on the fetal death certificate.

10 3. Fetal deaths occurring without the attendance of a physician OR  
11 NURSE PRACTITIONER as [defined] PROVIDED in subdivision two of this  
12 section shall be treated as deaths without medical attendance, as  
13 provided in this article.

14 4. When a fetal death occurs in a hospital, except in those cases  
15 where certificates are issued by coroners or medical examiners, the  
16 person in charge of such hospital or his OR HER designated represen-  
17 tative shall promptly present the certificate to the physician OR NURSE  
18 PRACTITIONER in attendance, or a physician OR NURSE PRACTITIONER acting  
19 in his OR HER behalf, who shall promptly certify to the facts of birth  
20 and of fetal death, provide the medical information required by the  
21 certificate, sign the medical certificate of birth and death, and there-  
22 upon return such certificate to such person, so that the seventy-two  
23 hour registration time limit prescribed in section four thousand one  
24 hundred sixty of this [chapter] TITLE can be met.

25 S 8. The section heading and subdivision 1 of section 4171 of the  
26 public health law, subdivision 1 as amended by chapter 884 of the laws  
27 of 1972, are amended to read as follows:

28 Records; duties of physicians, NURSE PRACTITIONERS, and others to  
29 furnish information. 1. Physicians, NURSE PRACTITIONERS, nurse-midwives,  
30 funeral directors, undertakers and informants, and all other persons  
31 having knowledge of the facts, are hereby required to supply, upon a  
32 form provided by the commissioner or upon the original certificate, such  
33 information as they may possess regarding any birth or death upon demand  
34 of the commissioner, in person, by mail, or through the registrar.

35 S 9. Subdivisions 1, 3 and 5 of section 4175 of the public health law,  
36 as amended by chapter 884 of the laws of 1972, are amended to read as  
37 follows:

38 1. If, at any time after the birth, or within one year of the death,  
39 of any person within the state, a certified copy of the official record  
40 of said birth or death, with the information required to be registered  
41 by this article, [be] IS necessary for legal, judicial, or other proper  
42 purposes, and, after search by the commissioner or his OR HER represen-  
43 tatives, it [should appear] APPEARS that no such certificate of birth or  
44 death was made and filed as provided by this article, then the commis-  
45 sioner shall immediately require the physician, NURSE PRACTITIONER, or  
46 nurse-midwife[,] who, being in attendance upon a birth, failed or  
47 neglected to file a certificate thereof, or the funeral director, under-  
48 taker, or other person who, having charge of the interment or removal of  
49 the body of a deceased person, failed or neglected to file the certif-  
50 icate of death, if he or she [be] IS living, to obtain and file at once  
51 with the local registrar such certificate in as complete form as the  
52 lapse of time will permit.

53 3. If the physician, NURSE PRACTITIONER, nurse-midwife, funeral direc-  
54 tor, or undertaker responsible for the report[,] is deceased or cannot  
55 be located, then the person making application for the certified copy of  
56 the record may file such certificate of birth or death together with

1 such statements subscribed and affirmed by the persons making them as  
2 true under the penalties of perjury and other evidence as the commis-  
3 sioner may require.

4 5. The delinquent physician, NURSE PRACTITIONER, nurse-midwife, funer-  
5 al director, undertaker, or other person may, in the discretion of the  
6 commissioner, be prosecuted as required by this article, without bar  
7 from the statute of limitations, if he or she [shall neglect or fail]  
8 NEGLECTS OR FAILS to file promptly the certificate required by this  
9 section.

10 S 10. This act shall take effect on the one hundred eightieth day  
11 after it shall have become a law; provided, that the commissioner of  
12 health is authorized and directed to promulgate any rules and regu-  
13 lations necessary to implement the provisions of this act on its effec-  
14 tive date on or before such date.