

4494

2009-2010 Regular Sessions

I N   S E N A T E

April 24, 2009

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Introduced by Sen. DUANE -- 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. Subdivision 4 of section 4141 of the public health law,  
2     paragraph (d) as added by chapter 413 of the laws of 2005, is amended to  
3     read as follows:

4     4. (a) The medical certificate shall be made, dated, and signed by the  
5     physician OR A PHYSICIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A  
6     PHYSICIAN, if any, last in attendance on the deceased.

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

9     (c) Any certificate stating the cause of death in terms which the  
10    commissioner [shall have declared] DECLARES indefinite[,] shall be  
11    returned to the physician, A PHYSICIAN ASSISTANT ACTING UNDER THE SUPER-  
12    VISION OF A PHYSICIAN, or person making the medical certificate[,] for  
13    correction and more definite statement. A CERTIFICATE CERTIFIED TO AND  
14    SIGNED BY A PHYSICIAN ASSISTANT IN ACCORDANCE WITH THIS SECTION SHALL  
15    HAVE THE SAME FORCE AND EFFECT IN LAW AS A CERTIFICATE SIGNED BY A  
16    PHYSICIAN.

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

20    S 2. Section 4141-a of the public health law, as added by chapter 402  
21    of the laws of 1968, is amended to read as follows:

22    S 4141-a. Death certificate; duties of hospital administrator. When a  
23    death occurs in a hospital, except in those cases where certificates are  
24    issued by coroners or medical examiners, the person in charge of such  
25    hospital or his OR HER designated representative shall promptly present  
26    the certificate to the physician OR A PHYSICIAN ASSISTANT ACTING UNDER  
27    THE SUPERVISION OF A PHYSICIAN in attendance, or a physician OR A PHYSI-  
28    CIAN ASSISTANT ACTING UNDER THE SUPERVISION OF A PHYSICIAN acting in his  
29    OR HER behalf, who shall promptly certify to the facts of death, provide

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

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1 the medical information required by the certificate, sign the medical  
2 certificate of death, and thereupon return such certificate to such  
3 person, so that the seventy-two hour registration time limit prescribed  
4 in section four thousand one hundred forty of this [chapter] TITLE can  
5 be met. A CERTIFICATE CERTIFIED TO AND SIGNED BY A PHYSICIAN ASSISTANT  
6 IN ACCORDANCE WITH THIS SECTION SHALL HAVE THE SAME FORCE AND EFFECT IN  
7 LAW AS A CERTIFICATE SIGNED BY A PHYSICIAN.

8 S 3. Subdivision (b) of section 4142 of the public health law, as  
9 amended by chapter 402 of the laws of 1968, is amended to read as  
10 follows:

11 (b) present the certificate promptly to the attending physician OR  
12 PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN, who shall  
13 forthwith certify to the facts of death, provide the medical information  
14 required by the certificate and sign the medical certificate of death,  
15 or to the coroner or medical examiner in those cases where so required  
16 by this article or, when a death occurs in a hospital, except in those  
17 cases where certificates are issued by coroners or medical examiners, to  
18 the person in charge of such hospital or his OR HER designated represen-  
19 tative, who shall obtain the medical certificate of death as prescribed  
20 in section four thousand one hundred forty-one-a of this [chapter]  
21 TITLE;

22 S 4. Paragraph (b) of subdivision 2 of section 4144 of the public  
23 health law, as amended by chapter 188 of the laws of 1997, is amended to  
24 read as follows:

25 (b) [Verbal] SPOKEN permission to remove a body of a deceased person  
26 from the county in which death occurred or the body was found to a non-  
27 adjacent county within the state of New York, as provided in subdivision  
28 one [hereof] OF THIS SECTION, shall be issued by the said registrar of  
29 vital statistics, upon request by telephone of a licensed funeral direc-  
30 tor or undertaker who holds a certificate of death signed by the attend-  
31 ing physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSI-  
32 CIAN, showing THAT the death resulted from natural causes[,] and was not  
33 a result of accidental, suicidal, homicidal or other external causes.

34 S 5. The section heading and subdivisions 2, 3 and 4 of section 4161  
35 of the public health law, the section heading and subdivision 4 as  
36 amended by chapter 402 of the laws of 1968, subdivision 2 as amended by  
37 chapter 884 of the laws of 1972, and subdivision 3 as amended by chapter  
38 388 of the laws of 1968, are amended to read as follows:

39 Fetal death certificates; form and content; physicians, PHYSICIAN  
40 ASSISTANTS, midwives, and hospital administrators.

41 2. In each case where a physician OR PHYSICIAN ASSISTANT UNDER THE  
42 SUPERVISION OF A PHYSICIAN was in attendance at[,] or after[,] a fetal  
43 death, it [shall be] IS the duty of such physician OR PHYSICIAN ASSIST-  
44 ANT UNDER THE SUPERVISION OF A PHYSICIAN to certify to the birth and to  
45 the cause of death on the fetal death certificate. Where a nurse-mid-  
46 wife was in attendance at a fetal death it [shall be] IS the duty of  
47 such nurse-midwife to certify to the birth but, HE OR she shall not  
48 certify to the cause of death on the fetal death certificate.

49 3. Fetal deaths occurring without the attendance of a physician OR  
50 PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN as [defined]  
51 PROVIDED in subdivision two of this section shall be treated as deaths  
52 without medical attendance, as provided in this article.

53 4. When a fetal death occurs in a hospital, except in those cases  
54 where certificates are issued by coroners or medical examiners, the  
55 person in charge of such hospital or his OR HER designated represen-  
56 tative shall promptly present the certificate to the physician OR PHYSI-

1 CIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN in attendance, or a  
2 physician OR PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A PHYSICIAN  
3 acting in his OR HER behalf, who shall promptly certify to the facts of  
4 birth and of fetal death, provide the medical information required by  
5 the certificate, sign the medical certificate of birth and death, and  
6 thereupon return such certificate to such person, so that the seventy-  
7 two hour registration time limit prescribed in section four thousand one  
8 hundred sixty of this [chapter] TITLE can be met.

9 S 6. The section heading and subdivision 1 of section 4171 of the  
10 public health law, subdivision 1 as amended by chapter 884 of the laws  
11 of 1972, is amended to read as follows:

12 Records; duties of physicians, PHYSICIAN ASSISTANTS, and others to  
13 furnish information. 1. Physicians, PHYSICIAN ASSISTANTS UNDER THE  
14 SUPERVISION OF A PHYSICIAN, nurse-midwives, funeral directors, undertak-  
15 ers and informants, and all other persons having knowledge of the facts,  
16 are hereby required to supply, upon a form provided by the commissioner  
17 or upon the original certificate, such information as they may possess  
18 regarding any birth or death upon demand of the commissioner, in person,  
19 by mail, or through the registrar.

20 S 7. Subdivisions 1, 3 and 5 of section 4175 of the public health law,  
21 as amended by chapter 884 of the laws of 1972, are amended to read as  
22 follows:

23 1. If, at any time after the birth, or within one year of the death,  
24 of any person within the state, a certified copy of the official record  
25 of said birth or death, with the information required to be registered  
26 by this article, [be] IS necessary for legal, judicial, or other proper  
27 purposes, and, after search by the commissioner or his OR HER represen-  
28 tatives, it [should appear] APPEARS that no such certificate of birth or  
29 death was made and filed as provided by this article, then the commis-  
30 sioner shall immediately require the physician, PHYSICIAN ASSISTANT  
31 UNDER THE SUPERVISION OF A PHYSICIAN, or nurse-midwife[,], who, being in  
32 attendance upon a birth, failed or neglected to file a certificate ther-  
33 eof, or the funeral director, undertaker, or other person who, having  
34 charge of the interment or removal of the body of a deceased person,  
35 failed or neglected to file the certificate of death, if he or she [be]  
36 IS living, to obtain and file at once with the local registrar such  
37 certificate in as complete form as the lapse of time will permit.

38 3. If the physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION OF A  
39 PHYSICIAN, nurse-midwife, funeral director, or undertaker responsible  
40 for the report[,], is deceased or cannot be located, then the person  
41 making application for the certified copy of the record may file such  
42 certificate of birth or death together with such statements subscribed  
43 and affirmed by the persons making them as true under the penalties of  
44 perjury and other evidence as the commissioner may require.

45 5. The delinquent physician, PHYSICIAN ASSISTANT UNDER THE SUPERVISION  
46 OF A PHYSICIAN, nurse-midwife, funeral director, undertaker, or other  
47 person may, in the discretion of the commissioner, be prosecuted as  
48 required by this article, without bar from the statute of limitations,  
49 if he or she [shall neglect or fail] NEGLECTS OR FAILS to file promptly  
50 the certificate required by this section.

51 S 8. This act shall take effect on the one hundred twentieth day after  
52 it shall have become a law; provided, however, that the commissioner of  
53 health is authorized and directed to promulgate any rules and regu-  
54 lations necessary to implement the provisions of this act on its effec-  
55 tive date on or before such date.