

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 351

S.P. 127

In Senate, January 30, 2003

An Act To Promote Clarity Regarding Death Certificates

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.
Cosponsored by Senator: MAYO of Sagadahoc.

2 **Emergency preamble. Whereas,** Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** current law authorizes only a medical examiner or
the physician to enter the cause of death on a death certificate;
and

8
10 **Whereas,** authorizing funeral directors and certain other
persons to complete the certificate pursuant to the direction of
a medical examiner or the physician will improve the filing
process; and

14 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
safety; now, therefore,

20 **Be it enacted by the People of the State of Maine as follows:**

22 **Sec. 1. 22 MRSA §2842, sub-§1,** as amended by PL 1977, c. 232,
§2, is further amended to read:

24
26 **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 ~~shall be~~ is
responsible for filing the certificate. ~~He~~ The funeral director
~~or other authorized person~~ shall obtain the personal data from
the best qualified person or source available ~~and he.~~ The
~~funeral director or other authorized person~~ shall ~~present the~~
~~certificate to the physician or medical examiner responsible for~~
~~completing the medical certification of the cause of death.~~
34 either:

36 A. Present the certificate to the physician or medical
examiner responsible for completing the medical
38 certification of the cause of death for completion and
signature; or

40 B. Type or print the cause of death on the certificate of
42 death if the cause of death was obtained from the physician
or medical examiner in charge, then present the certificate
44 to the physician or medical examiner for signature.

46 **Sec. 2. 22 MRSA §2842, sub-§2,** as amended by PL 2001, c. 574,
§26, is further amended to read:

48
50 **2. Medical certificate by physician.** The medical
certification of the cause of death must be completed as provided

2 in subsection 1 in typewritten or handwritten block style and
3 signed in a timely fashion by a physician authorized to practice
4 in the State who has knowledge of the patient's recent medical
5 condition, in accordance with department regulations and other
6 laws detailing who can certify and in what time frame, except
7 when the death falls under the jurisdiction of the medical
8 examiner as provided in section 3025. If the patient was a
9 resident of a nursing home licensed under section 1817 at the
10 time of death and if the physician in charge of the patient's
11 care or another physician designated by the physician in charge
12 had not examined the patient within 48 hours prior to death, or
13 within 2 weeks prior to death in the case of a terminally ill
14 patient, the physician in charge or another physician designated
15 by the physician in charge shall examine the body prior to
16 completing the certification of death process. Any physician who
17 fails to ~~complete~~ ensure that the medical certification of the
18 cause of death is completed properly and fully, in typewritten or
19 handwritten block style and in a timely manner, or who fails to
20 examine the body of a nursing home resident prior to certifying
21 cause of death as required by this section must be reported to
22 the Board of Licensure in Medicine or the Board of Osteopathic
23 Licensure, whichever is appropriate, by the State Registrar of
24 Vital Statistics of the Department of Human Services.

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

27 A. "Life-sustaining procedure" means any medical procedure
28 or intervention that, when administered to a qualified
29 patient, will serve only to prolong the dying process and
30 does not include nutrition and hydration.

31 B. "Terminally ill patient" means a patient who has been
32 diagnosed as having an incurable or irreversible condition
33 that, without the administration of life-sustaining
34 procedures, will, in the opinion of the attending physician,
35 result in death within a short time.

36 **Sec. 3. 22 MRSA §2842, sub-§3**, as amended by PL 2001, c. 574,
37 §27, is further amended to read:

38 **3. Medical certificate by medical examiner.** When a death
39 occurs under circumstances that make it a medical examiner case
40 as defined in section 3025, or when inquiry as to the cause of
41 death is required by law, the medical examiner shall ~~complete~~
42 ensure that the medical certification of the cause of death is
43 properly completed in typewritten or handwritten block style the
44 ~~medical certification of the cause of death~~ and shall sign the
45 death certificate. A certification need not be completed before
46 the remains are ready for release.

2 The medical examiner is responsible for the identity of the
4 deceased and the time, date, place, cause, manner and
6 circumstances of death on the death certificate. Entries may be
8 left "pending" if further study is needed; or, at the specific
10 direction of the Attorney General relative to cases under
12 investigation by the Attorney General's office, entries must be
14 left "withheld" until such time as the Attorney General, in the
16 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.

18 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

20

SUMMARY

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24 This bill gives a funeral director or other authorized
26 person the option of completing the certificate of death if the
cause of death is obtained from the physician or medical examiner
or having the physician or medical examiner complete the
certificate. In any case, the law requires the certificate to be
28 signed by the physician or medical examiner. The physician or
30 medical examiner signing the certificate is responsible for
making sure the cause of death is entered correctly on the
32 certificate.

This bill takes effect when approved.