

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1211

H.P. 885

House of Representatives, March 6, 2003

An Act To Amend the Laws Relating to Medical Certification of the Cause of Death and the Medical Examiner Act

Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative NORBERT of Portland.
Cosponsored by Senator PENDLETON of Cumberland.

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

2
4 **Sec. 1. 22 MRSA §2842, sub-§2-A** is enacted to read:

6 **2-A. Medical certification.** Notwithstanding subsection 2,
8 with respect to a person who dies within the State naturally and
10 for whom the physician was the attending physician the medical
12 certification of the cause of death may be completed and signed
14 by a physician authorized to practice at the Veterans
Administration Hospital at Togus or at another federal medical
facility within the State or by a physician licensed to practice
in New Hampshire, Vermont or Massachusetts, who, at the request
of the Chief Medical Examiner, is willing to do so.

16 **Sec. 2. 22 MRSA §3025, sub-§1**, as amended by PL 2001, c. 222,
§4 and c. 354, §3, is further amended to read:

18 **1. Circumstances of death that must be reported.** A medical
20 examiner case ~~exists~~ may exist and must be reported as provided
22 in section 3026 when remains are found ~~which~~ that may be human
and raise suspicion that death has occurred under any of the
following circumstances:

24 A. Death is suspected of having been caused by any type of
26 physical injury, including poisoning, regardless of whether
the suspected manner of death is homicide, suicide or
28 ~~accident~~. This circumstance must be reported irrespective
of whether the deceased had been attended by a physician,
was a patient in a hospital, survived for a considerable
time following the physical injury or died from terminal
natural causes consequent to and following the physical
injury;

34 B. Suddenly when the person is in apparent good health and
has no specific natural disease sufficient to explain death;

36 C. During diagnostic or therapeutic procedures under
38 circumstances indicating gross negligence or when clearly
due to trauma or poisoning unrelated to the ordinary risks
40 of those procedures;

42 D. Death when the person is in custody pursuant to an
44 arrest, confined in a state correctional facility, county
institution, facility or local lockup, unless clearly
46 certifiable by an attending physician as due to specific
natural causes;

48 E. Death while the person is a patient or resident of a
50 facility of the Department of Behavioral and Developmental
Services or residential care facility maintained or licensed
by the Department of Human Services, unless clearly

2 certifiable by an attending physician as due to specific
natural causes;

4 F. Death suspected of being due to a threat to the public
6 health when the authority of the medical examiner is needed
to adequately study the case for the protection of the
public health;

8 G. Death suspected of not having been certified, including,
10 but not limited to, bodies brought into the State and any
buried remains uncovered other than by legal exhumation;

12 H. Deaths suspected of being medical examiner cases which
14 may have been improperly certified or inadequately examined,
including, but not limited to, bodies brought into the State
16 under those circumstances;

18 I. Sudden infant death syndrome deaths and all other deaths
20 of children under the age of 18 unless clearly certifiable
by an attending physician as due to specific natural causes
unrelated to abuse or neglect;

22 J. Whenever human or possibly human remains are discovered
24 not properly interred or disposed of, for which the
responsibility to do so cannot be readily determined; or

26 K. Any cause when there is no attending physician capable
28 of certifying the death as due to natural causes. When a
person dies who is under the care of a religious
30 practitioner who uses prayer and spiritual means of healing,
the fact that the deceased has been under such religious
32 care does not warrant suspicion of foul play or
investigation beyond that warranted by the other facts of
34 the case.

36 In any case in which the necessity of a report is questionable, a
report must be made.

38 **Sec. 3. 22 MRSA §3025, sub-§1-A** is enacted to read:

40 **1-A. Medical examiner case determination.** Notwithstanding
42 that a case must be reported under subsection 1, the acceptance
44 of any reported death as a medical examiner case is to be
46 determined by the Chief Medical Examiner unless acceptance is
specifically ordered by the Attorney General or district attorney
having jurisdiction.

48 The following deaths that must be reported need not be accepted
by the Chief Medical Examiner as a medical examiner case:

2 Examiner, barring a directive from the Attorney General or
district attorney having jurisdiction.

4 3. It reconfigures, Title 22, section 3025. Specifically,
subsection 2 is now incorporated into subsection 1, paragraph A,
6 and that portion of subsection 4 addressing questionable cases is
now incorporated into subsection 1-A. Both subsections 2 and 4
8 are repealed.

10 4. It adds a new category of death that must be reported
but need not be accepted by the Chief Medical examiner as a
12 medical examiner case. The added category is found in Title 22,
section 3025, subsection 1-A, paragraph B and addresses deaths in
14 the elderly who have sustained an arm or leg fracture or a
fracture to the spine, ribs or pelvis and who are hospitalized at
16 the time of death or prior thereto because of such fracture.