



August 5, 2019

NOTICE OF PROPOSED RULEMAKING

Revisions to Chapter 511-1-3

Vital Records

The Department of Public Health proposes the attached amendments to Rule 511-1-3-.19, "Reporting of Deaths"; Rule 511-1-3-.23, "Permits for Disposition, Disinterment and Reinterment"; Rule 511-1-3-.33, "Disclosure of Vital Records and Information;" and Rule 511-1-3-.34, "Copies of Data from Vital Records," pursuant to its authority under Georgia Code Sections 31-2A-6, 31-10-3, 31-10-20, 31-10-23, 31-10-25, 31-10-26, and 2007 Op. Att'y Gen. No. 2007-4.

The purpose of the proposed rulemaking is to clarify that a death certificate shall be marked "pending" if the cause of death cannot be determined within forty-eight hours; to provide that a court order is required prior to the disinterment and reinterment of a dead body, including interred cremains; to correct a typographical error; to strike a general prohibition on the disclosure of cause of death on a death certificate, consistent with 2007 Op. Att'y Gen. 2007-4; and to clarify the requirements for the issuance of copies of deceased persons' birth certificates.

The proposed amendments have been posted to the Department's website at <https://dph.georgia.gov/regulationsrule-making>. Interested persons may submit comments on these proposed revisions in writing addressed to:

Kristin L. Miller
General Counsel
Georgia Department of Public Health
2 Peachtree Street, NW, 15th Floor
Atlanta, Georgia 30303
Kristin.Miller@dph.ga.gov

Written comments must be submitted on or before September 4, 2019. Comments may also be presented in person at a public meeting scheduled for 3:00 p.m. on September 3, 2019, in Room 9-260, "Adina's Room," at 2 Peachtree Street, NW, Atlanta, Georgia 30303. The Commissioner of Public Health will consider the proposed rules for adoption on or about September 5, 2019, to become effective on October 5, 2019.

Kristin L. Miller
General Counsel
Georgia Department of Public Health

RULES OF THE DEPARTMENT OF PUBLIC HEALTH

CHAPTER 511-1-3 Vital Records

- 511-1-3-.19 Reporting of Deaths.**
511-1-3-.23 Permits for Disposition, Disinterment and Reinterment.
511-1-3-.33 Disclosure of Vital Records and Information.
511-1-3-.34 Copies of Data from Vital Records.

511-1-3-.19 Reporting of Deaths.

- (1) **For whom required.** A report of death shall be filed for the following persons:
- (a) A person who dies in this State;
 - (b) A person whose body is discovered in this State;
 - (c) A person who dies on a moving conveyance and whose body is first removed from the conveyance in this State; and
 - (d) A spontaneous fetal death occurring in this State.
- (2) **Manner of reporting.** Death reports, including the certification of cause of death, shall be filed electronically with the Office of Vital Records in such manner as may be determined by the State Registrar.
- (3) **Information to be reported.** A report of death shall include the following information, if known or ascertainable from the decedent's next of kin or the best qualified person or source available:
- (a) Decedent's full legal name;
 - (b) Decedent's date of birth;
 - (c) Decedent's date of death. If the date of death is unknown, then the date on which the body was found shall be entered.
 - (d) Place of death.
 - 1. If unknown, then the place where the body was found shall be entered.
 - 2. If death occurred on a moving conveyance within the United States, then the place where the body was first removed from the conveyance shall be used.
 - 3. If death occurred on a moving conveyance in international waters or

airspace, then the actual place of death insofar as it can be determined shall be entered.

- (e) Cause of death, in accordance with subsection (5) of this Rule.
 - (f) Any other such information as the State Registrar may require.
- (4) **Who must file.** The report of death shall be filed by the funeral director who first assumes custody of the body, unless a death report was previously made by the hospital or other institution in which death occurred.
- (5) **Cause of death.** The electronic death report filed in accordance with subsections (1) through (4) of this Rule shall be supplemented by an electronic report of the cause of death. The cause of death shall be reported by:
- (a) The attending physician, if the decedent is a non-resident burn victim that dies in a treatment facility in this State;
 - (b) The physician attending the decedent for the illness or condition which resulted in death;
 - (c) If there is no attending physician as provided in subsection (5)(b) of this Rule, or with such physician's approval, certification of the cause of death may be made by any of the following persons, provided they had access to the decedent's medical history, viewed the decedent at or after death, and death occurred due to natural causes:
 1. A physician who is an associate of the attending physician;
 2. The chief medical officer of the institution in which death occurred;
 3. A physician who performed an autopsy on the decedent; or
 4. If death occurred without medical attendance, or if inquiry was required by Title 45, Chapter 16, Article 2, then by the county medical examiner or coroner.
 - (d) A determination of the cause of death must be made by the responsible physician, medical examiner, or coroner; however, the task of reporting that determination to the Office of Vital Records may be delegated to a person under his or her supervision.
 - (e) Notwithstanding any other provision of this Rule, if death occurs during a state of emergency declared by the Governor due to an influenza pandemic, then cause of death may be certified and reported by any registered nurse or physician's assistant, provided that such person had access to the decedent's medical history, viewed the decedent at or after death, and death occurred due to natural causes.

(6) **When reporting is due.**

- (a) The report of death shall be made within three calendar days after death.
- (b) Certification of the cause of death shall be made within three calendar days after death; provided, however, that if death occurred without medical attendance, or in cases subject to inquiry under Title 45, Chapter 16, Article 2, certification shall be made within 30 days after notification of death.
- (c) If for any reason the cause of death cannot be determined within 48 hours after death, then "~~under review~~pending" shall be entered on the death report and amended promptly after the determination is made. Until the cause of death is certified, final disposition of the body shall not be made unless authorized by the attending physician or, with regard to a body subject to inquiry under Title 45, Chapter 16, Article 2, by the county coroner or medical examiner.

Authority: O.C.G.A. Secs. 31-2A-6, 31-10-3, 31-10-15.

511-1-3-.23 Permits for Disposition, Disinterment and Reinterment.(1) Permits for Disposition of Human Remains.

- (a) The local registrar shall make arrangements to ensure that disposition permits may be issued 24 hours a day, seven days a week. For this purpose, the local registrar may appoint local persons or entities, including hospitals, hospices, and funeral homes, to serve as deputy local registrars for the limited purpose of issuing disposition permits in accordance with this Rule.
- (b) A disposition permit shall not be issued until the cause of death has been certified by a person authorized to do so under DPH Rule 511-1-3-.19(5); authorization has been given by the decedent's attending physician; or, with regard to a body subject to inquiry under Title 45, Chapter 16, Article 2, approval has been given by the county coroner or medical examiner.

(24) Permits for Disinterment and Reinterment.

- (a) ~~An authorization~~ The local registrar shall issue a permit for disinterment and reinterment of a dead body or fetus, including interred cremains, shall be issued by the local registrar upon receipt of an order of a court of competent jurisdiction directing such disinterment, or upon receipt of a written application signed jointly by the surviving spouse, or the next of kin in the absence of a surviving spouse; the owner of the cemetery plot; and the person who is in charge of the disinterment.
- (b2) ~~Upon receipt of a court order or signed application as described above, t~~ The local registrar may issue one authorization to permit for disinterment and reinterment of

all remains in a mass disinterment provided that, insofar as possible, the remains of each body shall be identified and the place of disinterment and reinterment specified.

~~(c) The authorization~~ A permit for disinterment and reinterment shall be permission for disinterment, transportation, and reinterment. When disinterment and reinterment are in the same cemetery, a permit shall not be required.

~~(3) The local registrar shall make arrangements to ensure that disposition permits may be issued 24 hours a day, seven days a week. For this purpose, the local registrar may appoint local persons or entities, including hospitals, hospices, and funeral homes, to serve as deputy local registrars for the limited purpose of issuing disposition permits in accordance with this Rule.~~

~~(4) A disposition permit shall not be issued until the cause of death has been certified by a person authorized to do so under DPH Rule 511-1-3.19(5); authorization given by the decedent's attending physician; or, with regard to a body subject to inquiry under Title 45, Chapter 16, Article 2, approval given by the county coroner or medical examiner.~~

Authority: O.C.G.A. §§ 31-2A-6, 31-10-3, 31-10-20, 31-10-23.

511-1-3-.33 Disclosure of Vital Records and Information.

(1) Copies of vital records maintained by the Office of Vital Records, and information contained in such vital records, shall not be disclosed except as permitted by:

- (a) Chapter 10 of Title 31;
- (b) Code Section 19-7-46.1;
- (c) the rules of the Department; or
- (d) as directed by court order.

A vital record shall not be disclosed pursuant to subpoena or civil discovery request unless the requesting party demonstrates its right to the record under this Rule.

(2) For purposes of this Rule, the term certified copy means a copy of a vital record printed on colored stock and bearing the raised seal of the State Registrar. A person entitled to have a plain paper copy of a vital record may request that the copy be certified in accordance with Code Sections 24-9-920 and 24-8-803(9).

(3) A certified copy of a birth certificate may be issued only to the following persons or their legal representatives:

- (a) The person whose birth is recorded on the certificate;
- (b) A parent of such person, except as provided in subsection (4) below;

- (c) A grandparent of such person;
- (d) An adult brother or sister of such person;
- (e) An adult child of such person;
- (f) The living legal spouse of such person;
- (g) A person who has been appointed, or who has applied in good faith to become, a legal guardian of such person; or
- (h) A person who demonstrates that a certified copy of the birth certificate is needed to establish a legal right or claim.

A plain paper copy of a birth certificate may be issued only to a person entitled to receive a certified copy; provided, however, that if the birth occurred more than one hundred years before the date of request, a plain paper copy may be provided to any person.

Further, a plain paper copy of the birth certificate of a deceased registrant may be issued to any person, so long as the fact of the registrant's death can be verified and the copy is clearly marked "deceased" in large letters on the face of the birth certificate.

- (4) A natural parent of an adopted child with no legal right to custody may not have access to the child's birth records except upon court order.
- (5) A certified copy of a death or spontaneous fetal death certificate may be issued only to the following persons or their legal representatives:
 - (a) A child, parent, legal living spouse, or other next of kin of the decedent;
 - (b) A person who has been appointed, or who has applied in good faith to become, the executor or administrator of the decedent's estate; or
 - (c) A person who demonstrates that a certified copy of the death certificate is needed to establish a legal right or claim.

A plain paper copy of a death certificate ~~showing cause of death~~ may be issued to any person; provided, however, that the decedent's Social Security number shall be redacted.

Upon request, the cause of death may be omitted from either a certified copy or a plain paper copy of a death certificate.

- (6) A certified copy of a voluntary acknowledgment of paternity, or a certified copy of a voluntary acknowledgment of legitimation executed prior to 1 July 2016, may be issued only to the following persons or their legal representatives:
 - (a) Either of the persons who signed the acknowledgment;
 - (b) The person whose paternity or legitimation was acknowledged, if she or she is at least 18 years of age;

- (c) A person who has been appointed, or who has applied in good faith to become, a legal guardian or custodian of the person whose paternity or legitimation was acknowledged;
- (d) A living legal spouse or next of kin of the person whose paternity or legitimation was acknowledged;
- (e) An attorney who demonstrates that the certificate is needed for purposes of legal investigation on behalf of a client; or
- (f) A licensed child-placing agency that demonstrates that the certificate is needed for official purposes.

A plain paper copy of a voluntary acknowledgement of paternity, or a voluntary acknowledgement of legitimation executed prior to 1 July 2016, may be issued only to a person entitled to receive a certified copy.

- (7) The State Registrar, in his or her reasonable discretion, may disclose information from Vital Records for statistical or research purposes, subject to such conditions as the State Registrar may impose, including without limitation a written agreement to maintain the confidentiality of the information so disclosed.
- (8) The State Registrar may provide copies of or disclose information from Vital Records to authorized representatives of Federal, State or County agencies who request such data in the conduct of their official duties.
- (9) The State Registrar or local custodian shall not issue a copy of a vital record, or information contained in vital records, until a signed application has been received with the appropriate fee. To determine an applicant's right to information from a vital record, the State Registrar or local registrar may request additional information from the applicant, including without limitation proof of the applicant's identity or a sworn statement.
- (10) Information contained in the "Information for Medical and Health Use Only" section on a birth certificate or spontaneous fetal death certificate, or the "Information for Statistical Purpose Only" section of the certificate of marriage or report of divorce, dissolution of marriage, or annulment, shall not be disclosed unless specifically authorized by the State Registrar for statistical or research purposes or upon court order.

Authority: O.C.G.A. §§ 31-2A-6, 31-10-3, 31-10-25, 31-10-26; 2007 Op. Att'y Gen. No. 2007-4.

511-1-3-.34 Copies of Data from Vital Records.

- (1) ~~Full or short form certified copies of a Vital Record may be made by mechanical, electronic, or other reproductive processes, except that the "Information for Medical and Health Use Only" section of the birth certificate and spontaneous fetal death certificate or the "Information for Statistical Purposes Only" section of the certificate of marriage and~~

~~report of divorce, dissolution of marriage or annulment shall not be included. The cause of death listed on a death certificate shall be issued as provided only in Rule 511-1-3-.33.~~

- (2) When a certified copy is issued, each certification shall be certified as a true copy by the officer in whose custody the record is entrusted, and shall include the date issued, the original signature or authorized facsimile thereof, of the issuing officer, the State Registrar's authorized facsimile signature, and the impressed seal of the issuing office. When certifying birth records which are not on file in the State Office of Vital Records or do not contain the State file number, a certifying statement which does not contain the facsimile signature of the State Registrar must be prepared by the issuing officer.
- (23) When the State Registrar receives information or finds evidence that a certificate was registered through misrepresentation or fraud, he or she shall have authority to withhold the issuance of a certified copy of such certificate, electronically flag the certificate, remove the certificate from the files, and place the certificate and all evidence which supports the finding of misrepresentation or fraud in a special file. Such certificate will be marked "Void". The decision to invalidate a record shall be subject to appeal in accordance with Rule 511-1-3-.39. ~~The registrant will be notified in writing of his or her right to appeal together with the reason upon which the State Registrar invalidated the record.~~
- (4) ~~Copies of birth certificates of deceased persons may be issued to any person who shows proof of death of the person named. Such copies shall be clearly marked "Deceased" in large letters on the face of the birth certificate.~~

Authority: O.C.G.A. §§ 31-2A-6, 31-10-3, 31-10-26.