

NEW LAW PERMITS REGISTERED NURSES TO SIGN DEATH CERTIFICATES WHEN THEY ARE AUTHORIZED TO PRONOUNCE DEATH

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Effective October 1, 2004, registered nurses ("RNs") may sign the medical portion of a death certificate when they have been authorized to pronounce death of nursing home, hospice or home care patients. The new law, Public Act No. 04-255, An Act Concerning Funeral Directors and Vital Records, also permits advance practice nurses ("APRNs") and physician assistants ("PAs") to sign the medical portion of death certificates under certain circumstances.

The General Assembly enacted these new provisions to respond to issues raised by funeral directors about the logistical challenges involved in attempting to obtain physicians' signatures on death certificates. Although the new law should ease these logistical challenges by expanding authority to sign the medical portion of death certificates, there are still some limitations; an RN's ability to sign a death certificate is limited to situations in which he or she is authorized to pronounce death. Nursing homes, hospices and home health agencies should make sure that they understand the law and how it affects existing state requirements and facility/agency policy.

Summary of New Provisions

1. General Rule:

- Public Act No. 04-255 provides that

the medical portion of a death certificate must be signed and returned to the licensed funeral director or licensed embalmer no later than 24 hours after death by the physician or APRN in charge of the patient's care for the illness or condition resulting in death.

- In the absence of the physician or APRN, or with approval of the physician or APRN, the following individuals may complete the medical portion of the death certificate: an associate physician, an APRN, or a PA or RN in accordance with statutes governing their respective scope of practice; as under previous law, the chief medical officer of an institution or a pathologist may sign and return the medical portion of the death certificate. The law requires that the individual signing the medical portion of the death certificate personally view and examine the body of the person to ensure that he or she is in fact dead, unless another authorized professional has already pronounced death.
- Under current law, if a physician refuses or otherwise fails to complete, sign and return the medical portion of a death certificate to the licensed funeral director or embalmer within 24 hours after death, the licensed funeral director or licensed embalmer may notify the Department of Public Health ("DPH"), which may assess a civil penalty against the physician not to exceed \$250. The new law extends

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this provision to APRNs, PAs, RNs, chief medical officers and pathologists who refuse or otherwise fail to submit the medical portion of the death certificate within 24 hours of death.

2. Effect on Specific Practice Act Provisions:

- **RNs:** Public Act No. 04-255 amends the Nurse Practice Act's provisions at Conn. Gen. Stat. § 20-101a concerning nurse pronouncement of death. Prior to October 1, 2004, this statute provided that an RN licensed in Connecticut working in a Connecticut licensed nursing home or hospice or a Connecticut licensed RN working in a patient's home, or RN working in a home health care agency, may make the actual determination and pronouncement of death of a patient provided certain conditions are satisfied: (1) the death must be anticipated; (2) the RN must attest to the pronouncement on the death certificate, and (3) a Connecticut licensed physician must certify the death and sign the death certificate within twenty-four hours of the nurse's pronouncement. Public Act No. 04-255 amended the third condition to permit the RN pronouncing death, an APRN or a PA, (in addition to a licensed physician), to sign the death certificate and made it clear that the death certificate must be signed no later than 24 hours after

pronouncement of death.

- **APRNs:** The new law also amends the statute governing APRN scope and practice. These amendments (to Conn. Gen. Stat. § 20-87a(b)) authorize an APRN to make the determination and pronouncement of death of a patient, provided the APRN attests to the pronouncement on the death certificate and signs the death certificate no later than 24 hours after the pronouncement. The APRN's authority is not limited to anticipated deaths, as with RNs.
- **PAs:** Finally, the new law amends Conn. Gen. Stat. § 20-12d(d) governing scope of practice of PAs, which is similar to RN provisions on pronouncement of death. As with RNs, PAs may sign the medical portion of a death certificate when the PA makes the actual determination and pronouncement of death; this authority is limited to anticipated deaths. The PA must attest to the pronouncement on the death certificate, and the PA or a physician must sign the death certificate no later than 24 hours after the pronouncement.

Refresher on Nurse Pronouncement Law and Regulation

As discussed above, the Nurse Practice Act permits RNs to pronounce death when death is anticipated and the RN attests to the death on the death certificate. DPH regulations governing

nurse pronouncement have been in effect for many years. These regulations are contained in Sections 7-62-1 through 7-62-3 of the Connecticut Public Health Code. Under these regulations:

- Anticipated death" is defined as "death which is, in the opinion, of the attending physician, expected due to illness, infirmity or disease."
- When the physician determines that death is anticipated, the physician must document the determination in the patient's medical record and authorize a specific RN or RNs to make a determination or pronouncement of death; when the anticipated death occurs in a licensed health care institution, the physician may authorize all RN employees to determine and pronounce death.
- The physician's determination is valid for up to 120 days.
- An RN who determines and pronounces death must document the clinical criteria for her determination of death and pronouncement in the patient's medical record, notify the physician who authorized nurse pronouncement and sign the death certificate. (Note that the regulations provide that the RN should sign the death certificate, but until the enactment of Public Act No. 04-255, it was assumed that a physician needed to sign as well.)
- An institution employing RNs must adopt policies and procedures to

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ensure compliance with the regulatory provisions summarized above.

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Action Steps

- Review your policy and procedures on nurse pronouncement and on signing of death certificates and revise them to comply with these changes in the law.
- Bring these changes in the law to the attention of your medical staff and review with medical staff the need to change or revise applicable medical staff bylaw provisions.
- Notify nursing staff of changes in the law, as well as any APRNs or PAs whom you employ or who work with physicians on your medical staff.
- Make sure that the licensed funeral directors and licensed embalmers that you deal with on a regular basis understand when and under what circumstances RNs and PAs may sign the medical portion of death certificates.

Nothing in this Advisory constitutes legal advice, which can only be obtained as a result of personal consultation with an attorney. The information published here is believed to be accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

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