

SPOTLIGHT

The Funeral Director's Role in Michigan's Vital Records Laws

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In addition to the support and assistance they provide grieving family members after the death of a loved one, Michigan's licensed funeral directors play a pivotal role in Michigan's collection and recording of vital statistics. Michigan's first vital statistic registration law dates to 1867, and within just a few years of the law's passage, most of Michigan's counties were in full compliance.¹ In 1897, a law was passed that required death records to be signed by the attending physician and funeral director and immediately filed.² Michigan's current vital records laws are found in Part 28 of the Public Health Code, MCL 333.2801 *et seq.* and its associated administrative rules.

Part 28 of the Public Health Code and its associated administrative rules are administered by the Department of Health and Human Services. However, the Department of Licensing and Regulatory Affairs ("LARA"), which regulates the profession of mortuary science, including the licensing of funeral directors and funeral establishments under Article 18 of the Occupational Code, MCL 339.1801 *et seq.*, considers any failure on the part of licensed funeral directors and funeral establishments to comply with Michigan's vital records laws to be a potential violation of a state law affecting the handling, custody, care, or transportation of a dead human body, which subjects the licensee to penalties under the Occupational Code.³ Administrative rules promulgated under the Occupational Code require that all resident trainees secure information for a death certificate and complete and file it at least 20 times as part of their practical experience requirements, underscoring the importance of this responsibility.⁴

The purpose of this Bulletin is to alert licensees and the public to the various laws setting forth the role and responsibility of licensed funeral directors concerning Michigan's system of vital records and vital statistics.

The Funeral Director's Role in Completing and Filing the Death Certificate

The funeral director who first assumes custody of a dead human body is responsible for reporting the death.⁵ This funeral director must obtain key personal data from the deceased's next of kin,⁶ obtain the medical certifications,⁷ and file the death certificate with the local registrar of the district where the death occurred within 72 hours after the death.⁸ In cases where not all of the information necessary to complete the death certificate is available within 72 hours of death, the funeral director

¹ State of Michigan, *Funeral Director's Manual* (2004), p 11, available at <https://www.michigan.gov/documents/FuneralsDirector_147583_7.pdf> (accessed July 31, 2018).

² *Id.* at 12.

³ MCL 339.1810(1)(h).

⁴ Mich Admin Code, R 339.18925(b)(i) &(b)(ii).

⁵ MCL 333.2843(1).

⁶ *Id.*

⁷ *Id.*

⁸ MCL 333.2843(3).

must file the certificate with all available information.⁹ In these cases, the funeral director must file a supplemental report providing the missing information as soon as possible but no later than 60 days after the date of death.¹⁰

While the medical certification portion of the death certificate must be signed by the attending physician, the attending physician's authorized representative, chief medical officer of the institution in which the death occurred (if the death occurred in an institution), the county medical examiner, deputy county medical examiner, or county health officer, the funeral director is ultimately responsible for obtaining this certification from the appropriate official.¹¹ If the cause of death is not known, or is not determined within 72 hours of death, the cause of death can be listed as "pending" only if signed by a county medical examiner or a deputy medical examiner.¹²

Death certificates filed after 72 hours of death, but within one year, are filed using the standard form.¹³ However, late filings must be accompanied by "a written explanation for the lateness of the filing."¹⁴ If more than one year passes from the date of death, the funeral director responsible for disposing of the deceased's body may apply for a delayed registration of death.¹⁵ Part 28 of the Public Health Code expressly prohibits the willful and knowing refusal to provide vital records information required under its provisions and associated administrative rules.¹⁶ It also prohibits making a false statement in a vital record,¹⁷ as well as counterfeiting, altering, amending, or mutilating a death certificate with the intent to deceive.¹⁸ Any such violation is a misdemeanor with a maximum punishment of one year imprisonment and a \$1,000 fine.¹⁹ Licensed funeral directors and establishments that commit any of these violations are also subject to disciplinary action by LARA under the Occupational Code for violating a state law affecting the handling, custody, care, or transportation of a dead human body,²⁰ and possibly also for engaging in gross negligence or incompetence in the practice of mortuary science, or other violations.²¹ However, LARA will exercise its prosecutorial discretion not to pursue charges in cases where the cause of the delay was outside of the control of the funeral director.

Michigan's Electronic Death Registration System

The State of Michigan Vital Records Office, located within the Department of Health and Human Services, established an Electronic Death Registration System (EDRS) that provides a secure, web-based environment that supports online collaboration between the various entities involved with the creation of a death certificate. The system began as a pilot program in Washtenaw and Jackson counties in 2010 but is now in use in every county in Michigan with the exception of

⁹ Mich Admin Code, R 325.3210(1).

¹⁰ Mich Admin Code, R 325.3210(3).

¹¹ MCL 333.2843(1) & (1)(a).

¹² Mich Admin Code, R 325.3210(1) & (2).

¹³ Mich Admin Code, R 325.3209(1).

¹⁴ *Id.*

¹⁵ Mich Admin Code, R 325.3221.

¹⁶ MCL 333.2894(1)(a).

¹⁷ MCL 333.2894(1)(b).

¹⁸ MCL 333.2894(2).

¹⁹ MCL 333.2896.

²⁰ MCL 339.1810(1)(h).

²¹ MCL 339.604(e) & (g).

Ontonagon County.²² The system enables participants in death registration, including licensed funeral directors, medical certifiers, and local medical examiners, to submit the necessary information for the creation of a death certificate through an online platform 24-hours per day.

The EDRS allows for death certificates to be completed faster, more completely, more securely, and with fewer errors than when completed by hand. The system will assist the State Vital Records Office with obtaining more accurate cause-of-death data. Due to the enormous advantages that this system has over the completion of and filing of death certificates by hand, the Department strongly encourages all licensed funeral homes to register with the system and complete death certificates using it. Registration involves applying to the State of Michigan for a MILogin account, completing a security agreement, requesting a fingerprint scanner (which is provided at no cost), and installing the scanner. More information about the EDRS, including tutorial videos, information about upcoming training, detailed user manuals, and answers to frequently asked questions, is available at: <https://michiganedrs.org>.

²² Michigan Department of Health and Human Services, *Participating EDRS Counties*, available at <<https://michiganedrs.org/wp-content/uploads/Counties%20up%20and%20running%20with%20cities.pdf>> (accessed August 1, 2018).