

CHAPTER 268
FORMERLY
HOUSE BILL NO. 354

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO DEATH CERTIFICATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The General Assembly finds and declares all of the following:

(1) Under current law there is no provision for death certificates to be medically prepared, certified, and signed by electronic means, and no requirement that they be electronically filed with the Office of Vital Statistics.

(2) A death certificate requires certain health providers to complete the medical certification of cause of death in order for death certificates to be completed, issued, and filed with the Office of Vital Statistics.

(3) The Center for Disease Control ("CDC") has determined that a novel coronavirus ("COVID-19") presents a serious public health threat. Social distancing is required to help mitigate the individual exposure to and community spread of the COVID-19 virus.

(4) A primary responsibility of the General Assembly is to protect the citizens of Delaware from COVID-19.

(5) The Governor declared a State of Emergency for the State of Delaware due to a public health threat as a result of COVID-19 on March 12, 2020.

(6) The Governor has issued Modifications to his State of Emergency Declaration, including the 14th Modification, on April 30, 2020, which includes, in part, that all death certifications shall be electronically completed, signed, certified, and filed electronically with the Delaware Vital Events Registration System (DeIVERS).

(7) The public health threat created by COVID-19 is likely to continue to create dangerous and potentially life-threatening public health conditions for Delawareans into 2021.

(8) Allowing health providers to provide their medical certifications of death by electronic means is necessary to protect the health and safety of Delawareans and to ensure the ability of death certificates to be safely and efficiently completed and filed with the Office of Vital Statistics.

Section 2. Amend Chapter 31, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3123 Registration of Death. [Effective until January 1, 2021]

(a) A certificate of death for each death which occurs in this State shall be filed with the Office of Vital Statistics, or as otherwise directed by the State Registrar, within 3 days after death, or as soon as possible after a death under subsections (e) and (f) of this section, and prior to final disposition of the dead body, and shall be registered if it has been completed and filed in accordance with this section.

(c) When no official death investigation is required, the medical certification shall be completed, signed and returned to the funeral director within 48 hours after death, or as soon as possible after a death under subsections (e) and (f) of this section, by the attending physician; or a registered nurse or an advanced practice registered nurse

(APRN) acting in accordance with § 1902(z) of Title 24. In the absence of the attending physician, the certificate may be completed and signed by the attending physician's designated physician or the chief medical officer of the institution in which death occurred if such individual has knowledge about the medical history of the case

(d) When an official death investigation is required pursuant to § 4706(a) of Title 29, the medical examiner shall assume custody of the dead body, determine the manner and cause of death and shall complete and sign the certificate of death and shall file the certificate of death with the Office of Vital Statistics.

(e) If the cause of death cannot be determined within 48 hours after death, the attending physician or medical examiner shall file with the Office of Vital Statistics a pending certificate of death and a toxicology study shall be performed. If a cause of death cannot be determined after the toxicology study is performed, the remains and all reports or studies shall be turned over to the Division of Forensic Science for review. When the cause of death is determined a revised certificate of death shall be issued and presented to the funeral director or the funeral director's agent, who in turn shall file the certificate with the Office of Vital Statistics.

(g) One of the following individuals shall pronounce a death:

(1) The attending physician.

(2) The medical examiner.

(3) A registered nurse or an advanced practice registered nurse (APRN) acting in accordance with § 1902(z) of Title 24.

(4) The medical control physician under § 1760(b) of Title 24.

(h) All medical certifications of death, required pursuant to subsections (c)-(e) of this section shall be electronically prepared, certified and signed by one of the individuals designated in subsection 3123(g) of this section.

(i) All certificates of death shall be electronically filed with the Delaware Vital Events Registration System (DeIVERS).

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Section 3. This Act expires on March 30, 2021, unless otherwise extended by a subsequent act of the General Assembly.

Approved July 23, 2020