

1 **HEALTH PROFESSIONAL AUTHORITY -**
2 **DEATH CERTIFICATES**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley G. Last**

6 Senate Sponsor: Sheldon L. Killpack

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Vital Statistics Act and the Motor Vehicle Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends definitions in the Vital Statistics Act;
- 14 ▶ except for fetal deaths, authorizes a nurse practitioner in certain circumstances to
- 15 state or certify cause of death, and complete and sign a death certificate;
- 16 ▶ provides additional definitions in the Motor Vehicle Act; and
- 17 ▶ allows a nurse practitioner to certify that a person has a disability, and will have the
- 18 disability for a particular length of time, for purposes of obtaining a disability
- 19 special group license plate, a temporary removable windshield placard, or a
- 20 removable windshield placard from the Motor Vehicle Division.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **26-2-2**, as last amended by Laws of Utah 2006, Chapter 56



28 **26-2-13**, as last amended by Laws of Utah 2007, Chapter 32
 29 **26-2-16**, as last amended by Laws of Utah 2006, Chapter 56
 30 **41-1a-420**, as last amended by Laws of Utah 2008, Chapter 382



31
 32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **26-2-2** is amended to read:

34 **26-2-2. Definitions.**

35 As used in this chapter:

36 (1) "Advanced practice registered nurse" means a person licensed to practice as an
 37 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

38 ~~[(1)]~~ (2) "Custodial funeral service director" means a funeral service director who:

- 39 (a) is employed by a licensed funeral establishment; and
- 40 (b) has custody of a dead body.

41 ~~[(2)]~~ (3) "Dead body" or "decedent" means a human body or parts of the human body
 42 from the condition of which it reasonably may be concluded that death occurred.

43 ~~[(3)]~~ (4) "Dead fetus" means a product of human conception:

- 44 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual
 45 period began to the date of delivery; and
- 46 (b) that was not born alive.

47 ~~[(4)]~~ (5) "Declarant father" means a male who claims to be the genetic father of a child,
 48 and, along with the biological mother, signs a voluntary declaration of paternity to establish the
 49 child's paternity.

50 ~~[(5)]~~ (6) "File" means the submission of a completed certificate or other similar
 51 document, record, or report as provided under this chapter for registration by the state registrar
 52 or a local registrar.

53 ~~[(6)]~~ (7) "Funeral service director" is as defined in Section 58-9-102.

54 ~~[(7)]~~ (8) "Health care facility" is as defined in Section 26-21-2.

55 (9) "Health care professional" means a physician or nurse practitioner.

56 ~~[(8)]~~ (10) "Licensed funeral establishment" means a funeral service establishment, as
 57 defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services
 58 Licensing Act.

59 ~~[(9)]~~ (11) "Live birth" means the birth of a child who shows evidence of life after it is
60 entirely outside of the mother.

61 ~~[(10)]~~ (12) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

62 (13) "Nurse practitioner" means an advanced practice registered nurse specializing as a
63 nurse practitioner who:

64 (a) has completed an education program regarding the completion of a certificate of
65 death developed by the department by administrative rule adopted in accordance with Title
66 63G, Chapter 3, Utah Administrative Rulemaking Act;

67 (b) is in independent practice or a group practice; and

68 (c) is not employed by a health care facility licensed under Chapter 21, Health Care
69 Facility Licensing and Inspection Act.

70 ~~[(11)]~~ (14) "Physician" means a person licensed to practice as a physician or osteopath
71 in this state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah
72 Osteopathic Medical Practice Act.

73 ~~[(12)]~~ (15) "Presumed father" means the father of a child conceived or born during a
74 marriage as defined in Section 30-1-17.2.

75 ~~[(13)]~~ (16) "Registration" or "register" means acceptance by the local or state registrar
76 of a certificate and incorporation of it into the permanent records of the state.

77 ~~[(14)]~~ (17) "State registrar" means the state registrar of vital records appointed under
78 Subsection 26-2-3(1)(e).

79 ~~[(15)]~~ (18) "Vital records" means registered certificates or reports of birth, death, fetal
80 death, marriage, divorce, dissolution of marriage, or annulment, amendments to any of these
81 registered certificates or reports, and other similar documents.

82 ~~[(16)]~~ (19) "Vital statistics" means the data derived from registered certificates and
83 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,
84 dissolution of marriage, or annulment.

85 Section 2. Section **26-2-13** is amended to read:

86 **26-2-13. Certificate of death -- Execution and registration requirements.**

87 (1) (a) A certificate of death for each death which occurs in this state shall be filed with
88 the local registrar of the district in which the death occurs, or as otherwise directed by the state
89 registrar, within five days after death and prior to the decedent's interment, any other disposal,

90 or removal from the registration district where the death occurred.

91 (b) A certificate of death shall be registered if it is completed and filed in accordance
92 with this chapter.

93 (2) (a) If the place of death is unknown but the dead body is found in this state, the
94 certificate of death shall be completed and filed in accordance with this section.

95 (b) The place where the dead body is found shall be shown as the place of death.

96 (c) If the date of death is unknown, the date shall be determined by approximation.

97 (3) (a) When death occurs in a moving conveyance in the United States and the
98 decedent is first removed from the conveyance in this state:

99 (i) the certificate of death shall be filed with:

100 (A) the local registrar of the district where the decedent is removed; or

101 (B) a person designated by the state registrar; and

102 (ii) the place where the decedent is removed shall be considered the place of death.

103 (b) When a death occurs on a moving conveyance outside the United States and the
104 decedent is first removed from the conveyance in this state:

105 (i) the certificate of death shall be filed with:

106 (A) the local registrar of the district where the decedent is removed; or

107 (B) a person designated by the state registrar; and

108 (ii) the certificate of death shall show the actual place of death to the extent it can be
109 determined.

110 (4) (a) The custodial funeral service director shall sign the certificate of death.

111 (b) The custodial funeral service director or an agent of the custodial funeral service
112 director shall:

113 (i) file the certificate of death prior to any disposition of a dead body or fetus; and

114 (ii) obtain the decedent's personal data from the next of kin or the best qualified person
115 or source available including the decedent's Social Security number, if known; however, the
116 certificate of death may not include the decedent's Social Security number.

117 (5) (a) ~~The~~ Except as provided in Section 26-2-14, fetal death certificates, the
118 medical section of the certificate of death shall be completed, signed, and returned to the
119 funeral service director within 72 hours after death by the [physician] health care professional
120 who was in charge of the decedent's care for the illness or condition which resulted in death,

121 except when inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act.

122 (b) In the absence of the [physician] health care professional or with the [physician's]
123 health care professional's approval, the certificate of death may be completed and signed by an
124 associate physician, the chief medical officer of the institution in which death occurred, or a
125 physician who performed an autopsy upon the decedent, provided the person has access to the
126 medical history of the case, views the decedent at or after death, and death is not due to causes
127 required to be investigated by the medical examiner.

128 (6) When death occurs more than 30 days after the decedent was last treated by a
129 [physician] health care professional, the case shall be referred to the medical examiner for
130 investigation to determine and certify the cause, date, and place of death.

131 (7) When inquiry is required by Title 26, Chapter 4, Utah Medical Examiner Act, the
132 medical examiner shall make an investigation and complete and sign the medical section of the
133 certificate of death within 72 hours after taking charge of the case.

134 (8) If the cause of death cannot be determined within 72 hours after death:

135 (a) the medical section of the certificate of death shall be completed as provided by
136 department rule;

137 (b) the attending [physician] health care professional or medical examiner shall give
138 the funeral service director notice of the reason for the delay; and

139 (c) final disposition of the decedent may not be made until authorized by the attending
140 [physician] health care professional or medical examiner.

141 (9) (a) When a death is presumed to have occurred within this state but the dead body
142 cannot be located, a certificate of death may be prepared by the state registrar upon receipt of
143 an order of a Utah district court.

144 (b) The order described in Subsection (9)(a) shall include a finding of fact stating the
145 name of the decedent, the date of death, and the place of death.

146 (c) A certificate of death prepared under Subsection (9)(a) shall:

147 (i) show the date of registration; and

148 (ii) identify the court and date of the order.

149 Section 3. Section **26-2-16** is amended to read:

150 **26-2-16. Certificate of death -- Duties of a custodial funeral service director or**
151 **agent -- Medical certification -- Records of funeral service director -- Information filed**

152 **with local registrar -- Unlawful signing of certificate of death.**

153 (1) The custodial funeral service director shall sign the certificate of death prior to any
154 disposition of a dead body or dead fetus.

155 (2) The custodial funeral service director or an agent of the custodial funeral service
156 director shall:

157 (a) obtain personal and statistical information regarding the decedent from the
158 available persons best qualified to provide the information;

159 (b) present the certificate of death to the attending [~~physician~~] health care professional,
160 if any, or to the medical examiner who shall certify the cause of death and other information
161 required on the certificate of death;

162 (c) provide the address of the custodial funeral service director;

163 (d) certify the date and place of burial; and

164 (e) file the certificate of death with the state or local registrar.

165 (3) A funeral service director, embalmer, or other person who removes from the place
166 of death or transports or is in charge of final disposal of a dead body or dead fetus, shall keep a
167 record identifying the dead body or dead fetus, and containing information pertaining to
168 receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.

169 (4) (a) Not later than the tenth day of each month, every licensed funeral service
170 establishment shall send to the local registrar and the department a list of the information
171 required in Subsection (3) for each casket furnished and for funerals performed when no casket
172 was furnished, during the preceding month.

173 (b) The list described in Subsection (4)(a) shall be in the form prescribed by the state
174 registrar.

175 (5) Any person who intentionally signs the portion of a certificate of death that is
176 required to be signed by a funeral service director under Subsection (1) is guilty of a class B
177 misdemeanor, unless the person:

178 (a) is a funeral service director; and

179 (b) is employed by a licensed funeral establishment.

180 Section 4. Section **41-1a-420** is amended to read:

181 **41-1a-420. Disability special group license plates -- Application and qualifications**
182 **-- Rulemaking.**

183 (1) As used in this section:

184 (a) "Advanced practice registered nurse" means a person licensed to practice as an
 185 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

186 (b) "Nurse practitioner" means an advanced practice registered nurse specializing as a
 187 nurse practitioner.

188 (c) "Physician" means a person licensed to practice as a physician or osteopath in this
 189 state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic
 190 Medical Practice Act.

191 ~~[(+)]~~ (2) The division shall issue a disability special group license plate, a temporary
 192 removable windshield placard, or a removable windshield placard to:

193 (a) a qualifying person with a disability; or

194 (b) the registered owner of a vehicle that an organization uses primarily for the
 195 transportation of persons with disabilities that limit or impair the ability to walk.

196 ~~[(2)]~~ (3) (a) The initial application of a person with a disability shall be accompanied
 197 by the certification of a ~~[licensed]~~ physician or nurse practitioner:

198 (i) that the applicant meets the definition of a person with a disability that limits or
 199 impairs the ability to walk as defined in the federal Uniform System for Parking for Persons
 200 with Disabilities, 23 C.F.R. Ch. 11, Subch. B, Pt. 1235.2 (1991); and

201 (ii) ~~[containing]~~ specifying the period of time that the physician or nurse practitioner
 202 determines the applicant will have the disability, not to exceed six months in the case of a
 203 temporary disability.

204 (b) The division shall issue a ~~[person with a]~~ disability special group license plate or a
 205 removable windshield placard to a person with a permanent disability.

206 (c) The issuance of a person with a disability special group license plate does not
 207 preclude the issuance to the same applicant of a removable windshield placard.

208 (d) On request of an applicant with a disability special group license plate, temporary
 209 removable windshield placard, or a removable windshield placard the division shall issue one
 210 additional placard.

211 (e) A disability special group license plate, temporary removable windshield placard,
 212 or removable windshield placard may be used to allow one motorcycle to share a parking space
 213 reserved for persons with a disability if:

214 (i) the person with a disability:
215 (A) is using a motorcycle; and
216 (B) displays on the motorcycle a disability special group license plate, temporary
217 removable windshield placard, or a removable windshield placard;
218 (ii) the person who shares the parking space assists the person with a disability with the
219 parking accommodation; and
220 (iii) the parking space is sufficient size to accommodate both motorcycles without
221 interfering with other parking spaces or traffic movement.
222 [~~3~~] (4) (a) The temporary removable windshield placard or removable windshield
223 placard shall be hung from the front windshield rearview mirror when the vehicle is parked in a
224 parking space reserved for persons with disabilities so that it is visible from the front and rear
225 of the vehicle.
226 (b) If a motorcycle is being used, the temporary removable windshield placard or
227 removable windshield placard shall be displayed in plain sight on or near the handle bars of the
228 motorcycle.
229 [~~4~~] (5) The commission shall make rules in accordance with Title 63G, Chapter 3,
230 Utah Administrative Rulemaking Act, to:
231 (a) establish qualifying criteria for persons to receive, renew, or surrender special group
232 license plates, a temporary removable windshield placard, or a removable windshield placard in
233 accordance with this section;
234 (b) establish the maximum number of numerals or characters for disability special
235 group license plates; and
236 (c) require all temporary removable windshield placards and removable windshield
237 placards to include:
238 (i) an identification number;
239 (ii) an expiration date not to exceed:
240 (A) six months for a temporary removable windshield placard; and
241 (B) two years for a removable windshield placard; and
242 (iii) the seal or other identifying mark of the division.

Legislative Review Note
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Office of Legislative Research and General Counsel