

**ADOPTED REGULATION OF
THE STATE BOARD OF HEALTH**

LCB File No. R066-16

Effective November 2, 2016

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, 9, 10, 13-20, 23, 27-29 and 37, NRS 440.120; §8, NRS 440.120 and 440.415; §11, NRS 440.170; §12 NRS 440.175; §21, NRS 440.120 and 440.325; §22, NRS 440.120 and 440.310; §24, NRS 440.120 and 440.670; §§25 and 26, NRS 440.120 and 440.380; §§30-36, NRS 440.120 and 440.620.

A REGULATION relating to vital statistics; establishing requirements to file a birth certificate for a homebirth; authorizing the State Registrar of Vital Statistics to accept certain types of documentary evidence as proof that a homebirth occurred; giving certain midwives authority to access the Electronic Birth Registry System under certain circumstances; requiring certain providers of health care to pronounce death under certain circumstances; making various changes to provisions relating to the alteration of certificates of birth, death and fetal death; repealing certain provisions governing the preparation of a new certificate of birth for a person having undergone a sexual transformation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations to provide a system for registering births and deaths in this State, and also requires the State Registrar of Vital Statistics to enforce those regulations. (NRS 440.120) Existing regulation provides a system of registration for certificates of birth, death and fetal death. (Chapter 440 of NAC) **Sections 2-6** of this regulation establish requirements of proof that an applicant must produce to file a birth certificate for a homebirth. **Section 3** of this regulation requires an applicant for a birth certificate for a homebirth to produce documentary evidence to establish: (1) the parentage of the child; (2) that a pregnancy occurred; (3) that a live birth occurred; and (4) that the birth occurred in this State. **Section 5** of this regulation sets forth the types of documentation that an applicant may submit to prove a homebirth. **Section 6** of this regulation authorizes the State Registrar to grant a certified midwife access to the Electronic Birth Registry System of this State to file a birth certificate for a homebirth.

Sections 9, 10, 13-17, 20-24 and 30-36 of this regulation make various changes to the requirements for filing a certificate of birth, as well as requirements for altering or changing information on a certificate of birth, death or fetal death. **Sections 11 and 12** of this regulation make various changes to the requirements for requesting vital statistics records from the State

Registrar. **Sections 25-29** of this regulation make various changes to the requirements for filing a certificate of death. **Section 37** of this regulation repeals provisions authorizing the State Registrar to prepare a new birth certificate upon court order for a person who had a sexual transformation.

Section 7 of this regulation authorizes the State Registrar or a local registrar of vital statistics to issue a burial or removal permit without a completed certificate of death. **Section 8** of this regulation requires: (1) a physician, physician assistant or registered nurse to pronounce death upon the cessation of the cardiovascular and respiratory functions of a person; or (2) a licensed emergency medical services professional to pronounce death in accordance with emergency medical services protocol. **Section 8** also authorizes a coroner to pronounce death under certain circumstances.

Section 1. Chapter 440 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 6, inclusive, of this regulation, “homebirth” means the birth of a child outside of a hospital when the mother and child are not transported to a hospital within 8 hours thereafter.*

Sec. 3. 1. *To file a birth certificate for a homebirth, an applicant must provide documentary evidence that:*

(a) The child was born in this State; and

(b) A birth certificate for that child was not previously filed in this State or any other state or country.

2. *Based on documentary evidence supplied pursuant to subsection 1, the State Registrar must be able to determine:*

(a) The parentage of the child;

(b) That a pregnancy occurred;

(c) That a live birth occurred; and

(d) That the homebirth occurred in this State.

Sec. 4. 1. *The State Registrar shall determine whether the documentary evidence submitted pursuant to subsection 2 of section 3 of this regulation is sufficient to warrant the filing of a birth certificate for a homebirth. The State Registrar may deem any documentary evidence as insufficient and may conduct an independent investigation of a homebirth at any time.*

2. Any document submitted as evidence of a homebirth must be authenticated as being an original document or a copy of a verifiable document. The State Registrar may accept documents not otherwise authenticated if accompanied by an affidavit submitted by the applicant declaring the authenticity of the document or the applicant's belief in the truth of its contents.

3. Documents that show erasures or alterations must not be accepted as evidence of a homebirth. Where an applicant for a birth certificate for a homebirth has been unable to provide valid documentary evidence, a complete statement of the facts and the reason for the absence of such evidence must be noted on the record of birth of the child of the applicant.

Sec. 5. *Pursuant to subsection 2 of section 3 of this regulation, the State Registrar may accept the following types of documentary evidence to establish:*

1. Parentage:

(a) A current and valid photo identification; and

(b) Two completed witness information forms provided by the State Registrar.

2. That a pregnancy occurred:

(a) Prenatal health care records;

(b) An affidavit from a licensed physician, public health nurse or other qualified health care provider who consulted with the applicant during the pregnancy; or

(c) An ultrasound performed on the applicant during the pregnancy.

3. That a live birth occurred:

(a) An affidavit from a licensed physician, public health nurse or other qualified health care provider who witnessed or examined the child within 14 days after the birth; or

(b) An appointment in person with the State Registrar or a local registrar of vital statistics with the parent and child present.

4. That the homebirth occurred in this State:

(a) A utility bill showing residency of the parent in this State at the time of birth that also displays the parent's name; or

(b) A statement which shows a credit or debit card transaction completed by the parent and which includes the date and location of the transaction. The transaction must have been completed in this State.

Sec. 6. 1. If a midwife provides sufficient documentation of his or her certification as a midwife and a current and valid state business registration, the State Registrar may grant the midwife access to the Electronic Birth Registry System of this State to file a birth certificate for a homebirth.

2. If sufficient documentation is not provided pursuant to subsection 1, to file a birth certificate for a homebirth, the documentary evidence required pursuant to subsection 2 of section 3 of this regulation must be submitted to the State Registrar either in person or by mail.

3. The types of documentation that the State Registrar will accept from a midwife to establish access to the Electronic Birth Registry System pursuant to subsection 1 include:

(a) A license, certification, registration, permit or other authorization that grants the midwife the authority to engage in a profession or occupation in this State;

(b) Certification from the American Midwifery Certification Board;

(c) Certification from the North American Registry of Midwives; or

(d) A certification of completion for any other method of midwifery training or apprenticeship or from a school for midwifery approved by the State Registrar.

Sec. 7. *The State Registrar or a local registrar of vital statistics may issue a burial or removal permit without a completed certificate of death, or a certificate eligible to be registered, for:*

1. A case of a coroner or medical examiner which is pending investigation: or

2. Any case requiring significant difficulty or expense to the applicant.

Sec. 8. *1. When the cessation of the cardiovascular and respiratory functions of a person occurs, and, when applicable, all resuscitative efforts are without success, a physician licensed pursuant to chapter 630, 630A or 633 of NRS, or a physician assistant or registered nurse authorized by a physician pursuant to NRS 440.415, shall pronounce death.*

2. A licensed emergency medical services professional shall pronounce death in accordance with emergency medical services protocol. If a death is reported to the coroner, the time of pronouncement of death must be communicated to the coroner or his or her designee.

3. The coroner or his or her designee may pronounce death if no official pronouncement has been made before his or her physical examination of the deceased.

Sec. 9. NAC 440.010 is hereby amended to read as follows:

440.010 As used in this chapter, “State Registrar” has the meaning ascribed to it in NRS 440.060. The term includes the State Registrar’s appointed ~~deputies~~ *designees*.

Sec. 10. NAC 440.020 is hereby amended to read as follows:

440.020 If any provision of ~~NAC 440.010 to 440.210, inclusive,~~ *this chapter* is declared unconstitutional or invalid for any reason, the remainder of those provisions are not affected thereby.

Sec. 11. NAC 440.0215 is hereby amended to read as follows:

440.0215 Except as otherwise provided in NAC 440.022, the State Registrar or the State Registrar's designee may provide ~~an~~ *a data or statistical* index that contains information from the vital statistics records that he or she maintains to a person who does not have a direct and tangible interest in that information if:

1. The person who requests the information:

(a) Submits evidence that is satisfactory to the State Registrar or the State Registrar's designee that the person is requesting the information for a legitimate *public health* research purpose;

(b) Specifically describes the type of information he or she is requesting; and

(c) Pays all applicable fees; and

2. The index contains:

(a) Only names of persons and their corresponding places and dates of birth or death; or

(b) Other information set forth in the vital statistics records the State Registrar maintains but does not identify the persons to whom that information relates.

↪ The index must not contain any social security numbers or residential addresses.

3. The index is not requested using personal identifying information, including, without limitation, a person's name or residential address.

Sec. 12. NAC 440.022 is hereby amended to read as follows:

440.022 The State Registrar may furnish any federal, state ~~{}~~ *or* local ~~{or other public or private}~~ agency with any information contained in the vital statistics records the State Registrar maintains if the agency:

1. Is required by state or federal law to maintain the confidentiality of the information; ~~{or}~~
2. Agrees in writing to maintain the confidentiality of the information ~~{}~~;
3. *Is requesting the information for a legitimate governmental purpose; and*
4. *Pays all applicable fees.*

Sec. 13. NAC 440.026 is hereby amended to read as follows:

440.026 1. A person who requests that the State Registrar ~~{or local registrar}~~ alter or correct a certificate of birth, death or fetal death must prepare an affidavit in support of the request and file it with the State Registrar ~~{or the local registrar in the county in which the certificate originated}~~ if:

(a) The certificate has been ~~{sent to the State Registrar and he or she has}~~ assigned ~~{it}~~ a *state* file number;

(b) Any certified copy has been issued; or

(c) The proposed alteration ~~{is a major one.}~~ *does not require a court order.*

2. Except as otherwise provided in NAC 440.035, if the State Registrar finds that the *submitted* evidence supporting a request for ~~{a major}~~ *an* alteration is satisfactory, the State Registrar shall alter the original certificate and send a copy of it to the local registrar.

3. A local registrar who receives such an affidavit:

(a) Shall not alter his or her copy of the certificate; and

(b) Shall replace the existing copy in his or her files with a copy of the certificate after alteration by the State Registrar.

Sec. 14. NAC 440.030 is hereby amended to read as follows:

440.030 1. An affidavit for alteration or correction of a certificate must consist of two parts as follows:

(a) The first part must consist of ~~the principal~~ *an* affidavit in which the affiant sets forth the facts that are not correctly stated on the certificate and also sets forth the changes necessary to correct the certificate.

(b) The second part must consist of a supplementary affidavit *or other verifiable evidence* corroborating the facts contained in the principal affidavit. ~~The~~ *Any* supplementary affidavit must be executed by a person other than the affiant of the principal affidavit.

2. The State Registrar ~~or the local registrar~~ may accept the affidavit for alteration or correction of a certificate only if the affiants:

(a) Have signed ~~both parts~~ *any affidavit* and these signatures are notarized; ~~and~~

(b) Have personal knowledge of the facts stated therein ~~and~~ *; and*

(c) Have provided a supplementary affidavit or other verifiable evidence to support the affidavit.

3. *As used in this section:*

(a) "Alteration or correction of a certificate" includes, without limitation, an alteration or correction to any:

(1) Date of birth;

(2) Date of death;

(3) Age;

(4) Part of the location of the birth or death;

(5) Gender or sex;

(6) Time of birth;

(7) Hour of death;

(8) Birthplace;

(9) Part of an address;

(10) Certifier or attendant information;

(11) Part of the cause of death;

(12) Communicable disease information;

(13) Funeral director or certifier information;

(14) Information relating to disposition of the decedent's remains; or

(15) Occupation, industry, education, social security number, race, ethnicity or military service information of the decedent or any name on a certificate for which an error can be proven.

(b) "Personal knowledge" means cognizance of a circumstance or fact gained directly through firsthand experience or observation, or through a personal, familial, medical or professional relationship with the person.

Sec. 15. NAC 440.035 is hereby amended to read as follows:

440.035 The State Registrar ~~for local registrar~~ shall not alter or correct any certificate *assigned a state file number* without an order from a court of competent jurisdiction if that proposed alteration:

1. Consists of the substitution *of a different name or* of the name of a different person as surviving spouse of the deceased *or changes the name or marital status of the deceased* on a death certificate where the evidence offered to support the action is contradictory or otherwise unsatisfactory;

2. Consists of the substitution of a different ~~{surname}~~ *name* for a child whose birth is registered on the certificate or a different name for either of his or her parents ~~{;}~~, *except as otherwise provided in paragraph (c) of subsection 6 of NRS 440.280*; or

3. Would indicate some other ~~{fundamental}~~ change in a legal relationship ~~{or other material changes}~~, *but does not include the change of a middle name to a middle initial, a middle initial to a middle name or the informant on a death certificate.*

Sec. 16. NAC 440.040 is hereby amended to read as follows:

440.040 1. A person ~~{who requests that}~~ *may request* the State Registrar or a local registrar *to* alter or correct a certificate of birth, death or fetal death ~~{need not prepare}~~ *without preparing* an affidavit in support of the request if:

(a) The original certificate is still held by the *State Registrar or a* local registrar ~~{, or if it has been sent to the State Registrar and he or she}~~ *and* has not ~~{yet}~~ *been* assigned ~~{it}~~ *a state* file number; *or*

(b) No certified copy of the certificate has been issued. ~~{; and~~

~~—(c) The proposed alteration is minor.~~

2. If the ~~{state}~~ *State Registrar or a* local registrar finds that the evidence supporting a request for ~~{a minor}~~ *an* alteration of a certificate is satisfactory, he or she shall ~~{alter}~~ *authorize the alteration of* the ~~{original}~~ *certificate.*

Sec. 17. NAC 440.060 is hereby amended to read as follows:

440.060 1. The State Registrar may prepare a replacement certificate.

2. To the extent possible the information on the certificate must be copied directly from the old certificate to the new certificate.

3. Except for the local registrar's signature, the signatures required for the certificate must be typed *or entered* in conformity with the signatures appearing on the original certificate. The item labeled "Registrar Signature" must be signed by the State Registrar.

4. The original certificate must be retained for permanent filing.

5. ~~Notation must be clearly placed upon the~~ *The* new certificate ~~that it is~~ *must be noted as* a replacement certificate for an original certificate on file.

Sec. 18. NAC 440.070 is hereby amended to read as follows:

440.070 1. The district health officer of Washoe County and the district health officer of Clark County may issue a certified copy of a certificate of birth or death if the certificate was originally filed with that district health office. The district health officer shall issue a certified copy in the manner set forth in NRS 440.650.

2. As used in NRS 440.650, ~~the~~ "direct and tangible interest" means a:

(a) Direct relationship by blood or marriage ~~to~~ *within the second degree of consanguinity to* the person named on the certificate;

(b) Legal relationship to the person named on the certificate; ~~or~~

(c) Requirement imposed by law or otherwise to facilitate legal process ~~to~~; *or*

(d) Funeral director or his or her designee from the funeral home who is listed on the death certificate within 180 days after the date of registration of the death.

Sec. 19. NAC 440.075 is hereby amended to read as follows:

440.075 1. The statistical portion of a certificate of birth, death or fetal death is for medical and health use only and must not be reproduced as part of a certified copy.

2. A certified copy of a certificate of birth, death or fetal death must be made on paper of the following quality:

(a) Banknote *security* paper; or

(b) ~~{Paper designed for use in a microfilm copier.}~~ *Other security paper as determined by the State Registrar.*

3. *The State Registrar and the local registrars shall determine the specifications for the type of security paper to be used when making certified copies of a certificate. Each registrar must use the same type of paper.*

4. When the State Registrar prepares a new birth certificate in the English language pursuant to the provisions of NRS 440.303, the State Registrar shall prepare the certificate on ~~{banknote}~~ *security* paper of a different color from that used for preparing copies of certificates for births, *deaths and fetal deaths* occurring in this state.

Sec. 20. NAC 440.080 is hereby amended to read as follows:

440.080 1. The form known as “affidavit for correction of a record” must be used for a ~~{supplementary}~~ report of a given name when the given name has been omitted on the original certificate.

2. The ~~{affidavits}~~ *affidavit for correction of a record* must be completed during the lifetime of the child in accordance with the procedures for *alteration or* correction of a certificate now on file described in NAC 440.030 . ~~{and 440.040.}~~

~~—3.— The name of the child must be entered on the face of the certificate when possible, and the proper notation made on the reverse side of the certificate.}~~

Sec. 21. NAC 440.110 is hereby amended to read as follows:

440.110 In the case specified by NRS 440.325, all information needed for the new certificate except the name of the child ~~{,}~~ *and* the information related to the father ~~{and the name of the informant}~~ must be obtained from the original certificate. The name of the child and the

name, age and state of birth of the father must be obtained from the ~~{document}~~ *court order or Declaration of Paternity form* filed *with the State Registrar* by the father ~~{. The name of the father may appear on the line “Informant.”}~~ *or mother.*

Sec. 22. NAC 440.120 is hereby amended to read as follows:

440.120 In preparing a new certificate of birth pursuant to NRS 440.310, the items specified by the *certified copy of the adoption decree and the certified report of adoption* must be *identical and be* completed as specified. If *any of* the information needed to complete the ~~{items labeled “Child” and “Certifier”}~~ *new certificate* is not specified by the adoption decree ~~{}~~ *or the report of adoption form*, the information must be transcribed directly from the original certificate. The information needed to complete the ~~{items labeled “Mother”}~~ *“Parent or Mother”* and ~~{“Father” in the upper section}~~ *“Parent or Father” sections* of the certificate must be collected ~~{on a}~~ *from the report of adoption* form devised for that purpose by the State Registrar. The ~~{item labeled “Informant” may show the name of one of the parents named on the certificate. All other items must be transcribed directly from the original certificate.}~~ *name of each parent on the report of adoption form must be identical to that on the adoption decree. Any name or suffix omitted on the adoption decree may be added to the decree if it is listed on the certified report of adoption form.*

Sec. 23. NAC 440.150 is hereby amended to read as follows:

440.150 On any new birth certificate prepared by the State Registrar as specified in NAC 440.100 to 440.140, inclusive, *and sections 2 to 6, inclusive, of this regulation*, the item labeled “Certifier Signature” must be typed *or entered* in conformity with the signature appearing on the original certificate and the item labeled “Registrar Signature” must be signed by the State Registrar.

Sec. 24. NAC 440.155 is hereby amended to read as follows:

440.155 ~~{A county health officer}~~ *The State Registrar or a local registrar* may issue an abstracted certificate of birth if the abstracted certificate contains ~~{at least}~~ *only* the following information:

1. Name of the person whose birth is recorded on the certificate;
2. Date of the birth of the person whose birth is recorded on the certificate;
3. ~~{Number}~~ *State file number* of the original certificate;
4. Race or ethnicity of the person whose birth is recorded on the certificate;
5. ~~{Maiden name of the mother of the person whose birth is recorded on the certificate};~~
- ~~—6.}~~ Sex of the person whose birth is recorded on the certificate;
- ~~{7.}~~ **6.** Date of ~~{issuance}~~ *registration* of the original certificate; and
- ~~{8. —Date of issuance of the abstracted certificate.}~~
- 7.** *Birthplace of the person whose birth is recorded on the certificate.*

Sec. 25. NAC 440.160 is hereby amended to read as follows:

440.160 1. The person who is required to certify the cause of death shall complete the portions of the death certificate pertaining to the cause of death and the certification of death ~~{and return the certificate to the undertaker or person acting as undertaker who presented it to him or her}~~ within 48 hours after ~~{such presentation.}~~ *being assigned as the certifier.*

2. If the death did not occur in a hospital or other institution and the death was attended by a physician who will not be available within 48 hours after the death, the certificate must be presented *or assigned* to an associate physician who has access to the attending physician's medical files on the deceased. The associate physician shall complete and ~~{return}~~ *certify* the

death certificate ~~{}~~ *within 48 hours after such presentation or after being assigned as the certifier.*

3. If the death occurred in a hospital or other institution and the death was attended by a physician who will not be available within 48 hours after the death, the certificate must be presented *or assigned* to the chief medical officer of the institution or an associate physician who has access to the medical records of the deceased. The chief medical officer or associate physician shall complete and ~~{return}~~ *certify* the death certificate ~~{}~~ *before the end of the next business day after such presentation or after being assigned as the certifier.*

4. *Any certificate rejected for not containing a certification of cause of death, lack of information or lack of certifier signature must be completed by the certifier within 24 hours after such rejection.*

Sec. 26. NAC 440.165 is hereby amended to read as follows:

440.165 1. The statement of the cause of death in a medical certificate of death *is the certifier's best medical opinion and* must be:

- (a) Written legibly ~~{}~~, *when completed on a paper certificate*; and
- (b) Expressed clearly and concisely.

2. The State Registrar or local registrar shall return a medical certificate of death to the certifier to be corrected or made more definite if the statement:

- (a) Consists of only the term "natural causes";
- (b) ~~{Contains}~~ *Consists solely of mechanisms of death which merely attest to the fact of death or contains* any other indefinite or obsolete term which denotes only the symptom of a disease or the conditions resulting from a disease;
- (c) Is illogically or confusingly written; or

(d) Contains ~~{personal}~~ abbreviations , *misspellings* or is written in shorthand ~~{H}~~ *or in all capital letters.*

3. Part I of the statement of the cause of death in the standard certificate of death approved by the United States Public Health Service may contain only the sequence of disease or the injury or other trauma directly resulting in death, as follows:

- (a) Line “A” must show the immediate (primary) cause of death;
- (b) ~~{Line}~~ *Lines* “B” *and* “C” must show the contributory or intermediate cause of death; and
- (c) Line ~~{“C”}~~ “D” must show the underlying cause of death.

→ The underlying cause of death must be the last cause listed. If there ~~{is}~~ *are* no intermediate ~~{cause,}~~ *causes*, the underlying cause must be entered on line “B”. If the immediate cause and the underlying cause are synonymous, only one entry is necessary. *It is permissible for a certifier to qualify a cause of death as “probable” or “presumed,” even if the cause has not been definitively diagnosed.*

4. Part II of the statement of the cause of death must show the diseases, injuries or other factors which are medically or statistically significant but not directly related to the cause of death.

5. The statement of the cause of death must be submitted electronically by the certifier to an electronic death registry system approved by the Division of Public and Behavioral Health of the Department of Health and Human Services and attested to by the certifier by means of an electronic signature.

6. As used in this section, “electronic signature” means an electronic sound, symbol or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

Sec. 27. NAC 440.170 is hereby amended to read as follows:

440.170 Except as otherwise provided in NAC 440.180, a death shall be considered to have been attended by a physician if the deceased:

1. Had ~~seen~~ *been examined or treated, including, without limitation, having been prescribed medications or provided care by* the physician ~~professionally~~ *for an acute or chronic condition*, within ~~30~~ *180* days preceding the death;
2. Was pronounced dead by a registered nurse *or physician assistant* pursuant to NRS 440.415; or
3. Was diagnosed by a physician as having an anticipated life expectancy of not more than 6 months.

Sec. 28. NAC 440.180 is hereby amended to read as follows:

440.180 If the deceased had been under a physician's care under the conditions set forth in NAC 440.170, but the cause of death was unrelated to the purpose for which the deceased consulted the physician, the death shall not be considered to have been attended and must be referred to the ~~local health officer~~ *county coroner or medical examiner for review*.

Sec. 29. NAC 440.190 is hereby amended to read as follows:

440.190 1. Within ~~a reasonable time~~ *72 hours* after any disinterment or removal of human remains, the funeral director or person who performed the disinterment shall send a copy of the permit for the disinterment *and file an affidavit for correction of a certificate pursuant to NAC 440.026* to the State Registrar.

2. Upon receipt of the copy ~~H~~ *of the permit and the affidavit*, the State Registrar shall:
 - (a) Change the statement of the place of interment on the certificate of death to show the new place of interment if the remains have been interred in a new place; and

(b) Send a copy of the changed certificate to the local registrar in the county of the new place of interment.

Sec. 30. NAC 440.300 is hereby amended to read as follows:

440.300 As used in NAC 440.300 to 440.360, inclusive, “delayed certificate of birth” means a certificate of a person’s birth filed more than ~~{4-years}~~ *1 year* after the ~~{time prescribed for its filing}~~ *date of birth of the person of record.*

Sec. 31. NAC 440.310 is hereby amended to read as follows:

440.310 1. A person for whom a delayed certificate of birth is to be filed must have been born in Nevada, and a birth certificate for the person must not have been previously filed in this state ~~{}~~ *or any other state or country. An applicant must provide verification from the State Registrar or a local registrar that a registered record of birth does not currently exist within this State.*

2. Before filing a delayed certificate of birth, the State Registrar ~~{of Vital Statistics}~~ must find that the following facts have been established concerning the person whose birth is to be registered:

- (a) Date of birth;
- (b) Birthplace; and
- (c) Parentage.

3. An applicant for the filing of a delayed certificate *of birth* must present at least two documents from independent sources to prove ~~{those facts unless such documentary evidence is not available. If it is not, the applicant must present all other evidence available to him or her.}~~ *each fact listed in subsection 2. One document may be used to prove more than one of those*

facts. In certain cases, to be determined by the *State* Registrar, the applicant's inability to furnish documentary evidence does not preclude the *State* Registrar from filing the certificate.

Sec. 32. NAC 440.320 is hereby amended to read as follows:

440.320 1. Any document presented must be at least 5 years old in order to be considered as evidence, except where:

- (a) The person whose birth is involved is less than 12 years of age; or
- (b) The *State* Registrar determines to take into account more recent records in his or her investigation of the case.

2. Any document *must be authenticated by being an original copy, a verifiable copy or a notarized copy in a sealed file from an independent source. The State Registrar may permit documents* not otherwise authenticated ~~must~~ to be accompanied by an affidavit from the applicant declaring the authenticity of the document or the applicant's belief in the truth of its contents.

3. Documents that show erasures or alterations must not be accepted as proof of the facts of birth.

4. All accepted documentary evidence must be listed as part of the record of delayed certificate of birth.

Sec. 33. NAC 440.330 is hereby amended to read as follows:

440.330 The types of *documentary* evidence which the State Registrar ~~of Vital Statistics~~ may accept to establish the facts necessary for the filing of a delayed certificate of birth follow in the order of preference:

1. A hospital record of birth.
2. A physician's record of birth.

3. ~~†A certificate of baptism or confirmation, a cradle roll or other church record.~~

~~4.†~~ An affidavit. If the affidavit is to prove the date of the applicant's birth, the affiant must state why he or she knows and remembers the date. The relationship of the affiant to the applicant must be stated in the affidavit.

~~5.†~~ 4. *A utility bill showing both residency at the time of birth and at least one parent's name.*

5. *A record of the United States Census Bureau.*

6. *A record of the Social Security Numerical Identification System.*

7. *A full page of a newspaper containing a notice of birth, showing the name and date of birth.*

8. *A certificate of baptism or confirmation, a cradle roll or other church record.*

9. An entrance record from a school.

~~6.†~~ 10. An insurance policy or a copy of a signed application for an insurance policy.

~~7.†~~ 11. A certificate of discharge from the Armed Forces.

~~8.†~~ 12. A record in a family bible if the information was recorded before the applicant's ~~fourth~~ *first* birthday.

~~9.†~~ 13. A driver's license.

~~10.†~~ 14. A marriage record.

~~11.†~~ 15. A record of a voter's registration.

~~12.†~~ 16. An employment record.

~~13.†~~ 17. A birth certificate of the applicant's child.

~~14.†~~ 18. A record from an organization of which the applicant is or was a member.

~~15.†~~ 19. Any other relevant document.

Sec. 34. NAC 440.340 is hereby amended to read as follows:

440.340 1. The State Registrar ~~{of Vital Statistics}~~ or the State Registrar's designated representative shall determine whether documentary evidence submitted is sufficient to warrant the filing of a delayed certificate of birth.

2. The *State* Registrar or such a representative may *deem any documentary evidence as insufficient and at any time may* institute a thorough and independent investigation of a case.

3. If an investigation is made, the *State* Registrar shall include a summary of findings as part of the ~~{certificate.}~~ *record of birth.*

Sec. 35. NAC 440.350 is hereby amended to read as follows:

440.350 Where an applicant for a delayed certificate of birth has been unable to furnish documentary evidence, *the State Registrar may request and accept* a complete statement of the facts and the reason for the absence of such evidence *which* must be placed ~~{on}~~ *in* the ~~{certificate and shown on any certified copies thereof.}~~ *record of birth, or advise the applicant of his or her right to seek an order from a court of competent jurisdiction to determine the sufficiency of any documentary evidence.*

Sec. 36. NAC 440.360 is hereby amended to read as follows:

440.360 1. If the ~~{applicant}~~ *person of record* is ~~{12}~~ *18* years of age or over, the ~~{applicant}~~ *person of record* must sign ~~{the delayed certificate of birth.}~~ *an affidavit provided by the State Registrar,* attesting under oath to his or her belief in the truth of the statements made concerning the applicant's age, birthplace and parentage.

2. If the ~~{applicant}~~ *person of record* is under ~~{12}~~ *18* years of age, the ~~{certificate}~~ *affidavit* may be signed by the ~~{applicant}~~ *person of record* or by the parents or guardian of the ~~{applicant.}~~ *person of record.*

Sec. 37. NAC 440.130 is hereby repealed.

TEXT OF REPEALED SECTION

440.130 Preparation of new birth certificates for persons having undergone sexual transformation. (NRS 440.120, 440.305)

1. The State Registrar may prepare a new certificate of birth for a person having a sexual transformation only upon order of a court of competent jurisdiction.
2. The court order must specify those facts to be changed on the new certificate. All other items must remain as on the original certificate.

DIVISION OF PUBLIC & BEHAVIORAL HEALTH
PREPAREDNESS, ASSURANCE, INSPECTIONS AND STATISTICS
OFFICE OF VITAL RECORDS AND STATISTICS
LCB File No. R066-16

Informational Statement per NRS 233B.066

1. A clear and concise explanation of the need for the adopted regulation;

The proposed regulations to Nevada Administrative Code 440 relating to Vital Statistics amend and modify existing language to make regulations more clear, current and compatible with the intent and scope of the Office of Vital Records program. The proposed regulations are designed around current industry standards and practices and to help establish a balance between customer service and the integrity of vital records. The balance between customer service and the integrity of vital records is sometimes challenging especially, knowing that a gateway to fraud and identity, is through the birth and death records that the Office of Vital Records maintains. Even though the recommended amendments, modifications or additions may slightly effect customer service or the integrity of records, it is done so to improve both aspects with minimal impact to the each other.

The proposed regulations are designed to also improved timeliness and quality of data.

2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary;

The Division of Public and Behavioral Health (DPBH)has held several opportunities for the public, small businesses and stakeholders to provide input and comments regarding the proposed regulations, including the economic impact the proposed regulations may have on small businesses and the public. A small business impact questionnaire was mailed or emailed to users of the Vital Records System, Funeral Homes, County Coroners / Medical Examiners, Clark County Health District, Washoe County Health District, the Nevada Board of Medical Examiners, Nevada Funeral and Cemetery Services Board, Nevada Nursing Board, Nevada State Medical Association, Clark County Medical Society, Clark County Vital Records Office, Washoe County Vital Records Office, Catholic Charities Adoption Services, The Church of Jesus Christ of Latter-Day Saints Family Services, US Adult Adoption Services, Gender Justice Nevada, Transgender Allies Group, American Civil Liberties Union, Surratt Law, and The Harvey Law Group along with a copy of the proposed regulation changes, on May 25, 2016.

Five responses were received out of 146 Small Business Impact Questionnaires distributed. The only negative comments received, indicated that it would have an indirect adverse effect upon their business. The respondent indicated government organization dislikes, but it wasn't specific to the regulations.

A small business impact statement was prepared and made available on June 22, 2016. The DPBH concluded the proposed regulations will produce negligible impact on small businesses. The Division of Public and Behavioral Health developed regulations that would not be unduly

burdensome on small businesses, such as midwives, funeral homes and medical offices. Overall, small businesses in the State of Nevada appear not to be impacted by the proposed regulations.

A Public Workshop was conducted Thursday July 7, 2016, via videoconference, in Carson City at the Division of Public and Behavioral Health, 4150 Technology Way, Room 303, Carson City, Nevada, 89706 and in Las Vegas at the Rawson-Neal Psychiatric Hospital. Six attendees provided testimony. Three were in support and the other three provided some opposition or questions. A summation of comments were as follows taken from the Public Workshop minutes:

1. The Moapa Valley Mortuary was against the time limit in section 18 in which a funeral home can request a death certificate. He indicated that the proposed change is counter-productive and is taking a service away from the families.
2. A member of the public had an issue with obtaining a death certificate. She waited several weeks for the certifier to sign the record. She said that there should be provisions to cover this and it should be no more than 24 hours.
3. A midwife had a question regarding section 2 and the definition of “immediately” for homebirths. She said that many hours after birth a baby may need to be taken to the hospital for further evaluation.

The State Board of Health meeting was conducted on Friday September 9, 2016. There was no public comment on the proposed regulations.

Other interested parties can find proposed regulations and the small business impact statement on our website at: http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/

- 3. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation. This statement should include for each person identified pursuant to this section that testified at each hearing and/or submitted written statements regarding the proposed regulation, the following information, if provided to the agency conducting the hearing or workshop:**
 - (a) Name**
 - (b) Telephone Number**
 - (c) Business Address**
 - (d) Business telephone number**
 - (e) Electronic mail address; and**
 - (f) Name of entity or organization represented**

Susan Zannis – 280 S Decatur – SNHD – Vistal Statistics Supervisor
John Fudenberg – 1704 Pinto Lane – CCOCME – Coroner
Paul Parker – 1704 Pinto Lane – CCOCME – Coroner
Ester Brown – 8024 Hesperides Ave

Jason Frierson – 3003 Novat St – Surratt Law Practice – Attorney
Brooke Maylath – Reno – TAG – Support
Elizabeth Tamietti – Reno – TAG – Support
Melinda Hoskins – Minden – NV ACNM – Support
Tamar Robinson – Reno – Neptune – Funeral Director

No public comment was received at the State Board of Health meeting.

4. A description of how comment was solicited (i.e., notices) from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

A copy of the public notice and agenda was faxed to the following locations for posting including all county libraries:

1. Division of Public and Behavioral Health, 4150 Technology Way, First Floor Lobby, Carson City
 2. Nevada State Library and Archives, 100 Stewart Street, Carson City
 3. Emergency Medical Systems, 1020 Ruby Vista Drive, Ste. 102, Elko
 4. Southern Nevada Health District, 280 S Decatur Blvd, Las Vegas
 5. Washoe County District Health Department, 1001 E. Ninth, Building B, Reno
 6. Rawson-Neal Psychiatric Hospital, 1650 Community College Drive, Las Vegas
 7. Nevada Early Intervention Services, 3811 W. Charleston Blvd. Ste. 112, Las Vegas
- Nevada State Division of Public and Behavioral Health, Office of Vital Records web page:
http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/
8. Nevada Public Notice Website: <http://notice.nv.gov>

In addition, a small business impact questionnaire was mailed or emailed to users of the Vital Records System, Funeral Homes, County Coroners / Medical Examiners, Clark County Health District, Washoe County Health District, the Nevada Board of Medical Examiners, Nevada Funeral and Cemetery Services Board, Nevada Nursing Board, Nevada State Medical Association, Clark County Medical Society, Clark County Vital Records Office, Washoe County Vital Records Office, Catholic Charities Adoption Services, The Church of Jesus Christ of Latter-Day Saints Family Services, US Adult Adoption Services, Gender Justice Nevada, Transgender Allies Group, American Civil Liberties Union, Surratt Law, and The Harvey Law Group along with a copy of the proposed regulation changes, on May 25, 2016.

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1. The Moapa Valley Mortuary was against the time limit in section 18 in which a funeral home can request a death certificate. He indicated that the proposed change is counter-productive and is taking a service away from the families.
2. A member of the public had an issue with obtaining a death certificate. She waited several weeks for the certifier to sign the record. She said that there should be provisions to cover this and it should be no more than 24 hours.
3. A midwife had a question regarding section 2 and the definition of “immediately” for homebirths. She said that many hours after birth a baby may need to be taken to the hospital for further evaluation.

The State Board of Health meeting was conducted on Friday September 9, 2016. There were no public comment on the proposed regulations.

Other interested parties can find proposed regulations and the small business impact statement on our website at:

http://dpbh.nv.gov/Programs/BirthDeath/Birth_and_Death_Vital_Records_-_Home/

5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation as proposed.

For all public comment, the Office of Vital Records addressed two of the three public comments.

The Moapa Valley Mortuary was against the time limit in section 18 in which a funeral home can request a death certificate. He indicated that the proposed change is counter-productive and is taking a service away from the families.

The proposed concern was discussed with Moapa Valley Mortuary. It was agreed to extend the time frame by two months and still allow another avenue for them to assist their customers, which was their main concern.

A member of the public had an issue with obtaining a death certificate. She waited several weeks for the certifier to sign the record. She said that there should be provisions to cover this and it should be no more than 24 hours.

There are provisions existing in section 25 regarding a time frame for certifiers to sign a record. The current regulations have a 48 hour time frame. The Office of Vital Records felt that lowering the time frame to 24 hours would be burdensome on certifiers.

A midwife had a question regarding section 2 and the definition of immediately for homebirth. She said that many hours later she may have to have a baby taken to the hospital for further evaluation.

A revision to the proposed regulations to clarify the word “immediately” was proposed.

- 6. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:
 - a. Both adverse and beneficial effects; and**
 - b. Both immediate and long term effects.****

There was no known economic impact, immediate or long term effects on the businesses which it is to regulate. One county government agency indicated that it would have an indirect adverse effect on their business. According to the respondent, he did not see the regulations prior to his response.

There was no known economic impact, immediate or long term effects for the public.

- 7. The estimated cost to the agency for enforcement of the proposed regulation.**

There are no anticipated costs to the agency for enforcement of the regulations.

- 8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, name the regulating federal agency.**

The proposed regulations do not overlap or duplicate other state or government agencies.

- 9. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions; and**

The proposed regulations are not more stringent than federal regulations.

- 10. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.**

There are no fees in the proposed regulation.