

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB FILE NO. R150-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/15/2018**

Proposed Regulation
Draft for Public Workshop

Explanation – Matters in *bold italics* is new; matters in brackets and strikethrough ~~[omitted material]~~ is material to be omitted.

Sec. 1. *Any certifier or funeral director initiating a death certificate shall start the record within 24 hours. A certifier shall start the death certificate within 24 hours from the date and hour of death. A funeral director shall start the death certificate within 24 hours after receiving the decedent.*

Sec. 2. *Section 5 is hereby amended to read as follows:*

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.

(d) If any documents in 2 (a-c) are unattainable, the State Registrar may obtain three (3) witness affidavits from any persons, other than the parents, with personal knowledge of 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. If the parents reside in another state, an appointment via video conference will suffice for an appointment in person. If an appointment is via video conference, the State Registrar will require all documents to be submitted and be complete prior to the video conference.

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. 3. NAC 440.022 is hereby amended to read as follows:

1. The State Registrar may furnish any **government** ~~[federal, state, or local]~~ agency **or covered entity** 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;
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.

For purposes of this section “covered entity” has the meaning ascribed to it in Section 103 of Chapter 45 of the Code of Federal Regulations.

For purposes of this section “legitimate purpose” includes but is not limited to research, epidemiology, legal proceedings, or other purpose determined to be legitimate by the State Registrar.

Sec. 4. NAC 440.023 is hereby amended to read as follows:

440.023 A request to alter or correct information other than medical information on a certificate of:

- (a) Birth must originate with the person whose birth is registered on the certificate, or the person’s parent, guardian or legal representative.
 - (b) Death or fetal death must originate with ~~[the]~~ **a** funeral director **from the funeral home**, certifier, **coroner or medical examiner from the county** or informant listed on the certificate.
- 1.* A request to alter or correct the medical information on a certificate of birth, death or fetal death must originate with the certifier of the medical information on the record **or the coroner or medical examiner from the county if the death is being investigated by their agency. If the certifier is no longer with the facility, the current medical director or an individual acting in a similar capacity may request to alter or correct the medical information. Medical information on a birth, death or fetal death includes, without limitation:**

Date of birth on a certificate of birth
Time of birth
Sex on a certificate of birth
Facility name on a certificate of birth
Date of Death
Hour of Death
Part of the cause of death
Communicable disease information
Injury information

2. *The State Registrar may alter or correct information on a certificate for obvious errors to ensure the accuracy of the records the State Registrar maintains. The correction of a name is not considered an obvious error.*

Sec. 5. NAC 440.026 is hereby amended to read as follows:

440.026 1. A person who requests that the State 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 if:

(a) The certificate has been assigned a state file number, *except for a coroner or medical examiner updating the medical information for any case pending investigation; or*

~~[(b) Any certified copy has been issued; or]~~

~~[(e)]~~ (b) The proposed alteration 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 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. 6. 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 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 State Registrar may accept a supplementary affidavit as other verifiable evidence as deemed appropriate by the State Registrar.* Any

supplemental affidavit must be executed by a person other than the affiant of the principal affidavit.

If medical records are required as other verifiable evidence to alter or correct medical information on a certificate are no longer available, the State Registrar may deem other documents acceptable as other verifiable evidence. Other verifiable evidence submitted to alter or correct parent information on a birth certificate must be dated prior to the birth of the child.

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

- (a) Have signed any affidavit and these signatures are notarized;
- (b) Have personal knowledge of the facts stated therein; 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. 7. NAC 440.035 is hereby amended to read as follows:

The State 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, *unless verifiable evidence is submitted to the State Registrar that an error occurred;* ~~[where the evidence offered to support the action is contradictory or otherwise unsatisfactory;]~~
2. Consists of the substitution of a different name for a child whose birth is registered on the certificate or a different name for either of his or her parents, except *for the person of record within the first year after birth* or as otherwise provided in paragraph (c) of subsection 6 of NRS 440.280; ~~[or]~~

3. Would indicate some other change in a legal relationship, 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; *or*
4. *When a requested amendment would possibly change the identity of the person of record through cumulative, whether current or previous requests, changes to the name, date of birth or place of birth.*
5. *When the requested item on the certificate has been previously altered or corrected, except for cause of death completed by the medical certifier.*

Sec. 8. NAC 440.040 is hereby amended to read as follows:

440.040 1. A *funeral director, certifier or attendant* [person] may [~~request the State Registrar or a local registrar to~~] alter or correct a certificate of birth, death or fetal death 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 and has not been assigned a state file number; or
 - (b) *A state file number has been issued for a coroner or medical examiner case pending investigation where the medical information needs to be updated.* ~~No certified copy of the certificate has been issued.~~
2. [~~If the State Registrar or a local registrar finds that the evidence supporting a request for an alteration of a certificate is satisfactory, he or she shall authorize the alteration of the certificate.~~]

Sec. 9. 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. *Any information required for the replacement certificate which is unavailable on the original certificate may be completed in accordance with the procedures for alteration or correction of a certificate as prescribed in NAC 440.030.*

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. The new record must be noted that it is a replacement certificate for an original certificate on file.

Sec. 10. 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 given name when the given name has been omitted on the original certificate.

2. The affidavit for correction of a record must be completed *within the first year after the date of birth* [~~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](#).

3. *If two parents are listed on the birth certificate, both parents shall agree to the addition of a given name through separate affidavits, unless one parent is deceased or otherwise incapacitated.*

Sec. 11. 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]~~ *parent* must be obtained from the original certificate. The name of the child and the name, age and state of birth of the ~~[father]~~ *parent* must be obtained from the court order, ~~[or]~~ Declaration of Paternity form *or Declaration of Parentage form* filed with the State Registrar by the ~~[father or mother]~~ *parent(s)*.

Sec. 12. 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 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 “Parent or Mother” and “Parent or Father” sections of the certificate must be collected from the report of adoption form devised for that purpose by the State Registrar. *If the report of adoption does not contain the information required to complete the new certificate, the information may be obtained from the certified court order.* The name of each parent on the report of adoption form must be identical to that

on the adoption decree, *except for a last name obtained through marriage or domestic partnership*.

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. 13. . 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 within 48 hours after 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 *or an advanced practice registered nurse* who will not be available within 48 hours after the death, the certificate must be presented or assigned to an associate physician *or an advanced practice registered nurse* who has access to the attending physician's *or an advanced practice registered nurse* medical files on the deceased. The associate physician *or an advanced practice registered nurse* shall complete and 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 *or an advanced practice registered nurse* 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, *or an advanced practice registered nurse* who has access to the medical records of the deceased. The chief medical officer, ~~or~~ associate physician, *or an advanced practice registered nurse* shall complete and 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. 14. 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 or *an advanced practice registered nurse* if the deceased:

1. Had been examined or treated, including, without limitation, having been prescribed medications or provided care by the physician *or an advanced practice registered nurse* for an acute or chronic condition, within 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 *or an advanced practice registered nurse* as having an anticipated life expectancy of not more than 6 months.

Sec. 15. NAC 440.180 is hereby amended to read as follows:

440.180 If the deceased had been under a physician's *or advance practice registered nurse'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 *or advanced practice registered nurse*, the death shall not be considered to have been attended and must be referred to the county coroner or medical examiner for review.

Sec. 16. NAC 440.190 is hereby amended to read as follows:

440.190 1. [~~Within 72 hours after~~] *Prior to*, 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 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.