

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

LCB File No. R150-18

September 5, 2018

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

AUTHORITY: §§1, 3-9, 15 and 16, NRS 440.120; §2, NRS 440.175; §10, NRS 440.120 and 440.325; §11, NRS 440.120 and 440.310; §§12-14, NRS 440.120, 440.380 and 632.237.

A REGULATION relating to vital statistics; prescribing the time within which a death certificate must be initiated; authorizing disclosure of information contained in vital statistics records to certain entities; revising provisions governing the alteration or correction of a certificate of birth, death or fetal death; authorizing the State Registrar to obtain certain information from a Declaration of Parentage form when preparing a new birth certificate; revising provisions relating to the preparation of a supplementary birth certificate; clarifying that an advanced practice registered nurse is authorized to perform certain functions relating to certificates of death; revising the documentary evidence acceptable to prove a pregnancy or live birth; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Health to adopt regulations prescribing the method and form of registering births and deaths. (NRS 440.120) **Section 1** of this regulation requires the person completing the certificate of death to initiate the certificate not later than 24 hours after the death occurred or the corpse is received by a funeral director.

Existing regulations authorize the State Registrar to furnish any information contained in the vital statistics records maintained by the State Registrar to a federal, state or local agency that is requesting the information for a legitimate purpose and meets certain other requirements. (NAC 440.022) **Section 2** of this regulation also authorizes disclosure to other government agencies and certain other entities covered by federal law concerning the privacy of health information and specifies purposes that are considered to be legitimate.

Existing regulations prescribe the requirements and procedure for altering or correcting information on a certificate of birth, death or fetal death. (NAC 440.023-440.040) **Section 3** of this regulation revises the persons who are authorized to request to alter such information.

Existing regulations only allow the alteration of a certificate of birth, death or fetal death for which a state file number has been assigned if an affidavit is prepared. (NAC 440.026)

Sections 4 and 7 of this regulation authorize a coroner or medical examiner to alter or correct such a certificate of death or fetal death without preparing an affidavit if the state file number was assigned before the coroner or medical examiner conducted an investigation.

Existing regulations require an affidavit to support the alteration of a certificate of birth, death or fetal death to consist of an affidavit and other verifiable evidence supporting the affidavit. (NAC 440.030) **Section 5** of this regulation: (1) authorizes the submission of certain documents to be used as other verifiable evidence if approved by the State Registrar; and (2) requires other verifiable evidence submitted in support of an affidavit made for the purpose of altering or correcting information concerning the parents of a child on a birth certificate to be dated prior to the birth of the child. **Section 6** of this regulation revises the circumstances under which a court order is required to alter or correct a certificate that has been assigned a state file number.

Existing regulations authorize any person to submit a request to the State Registrar or a local registrar to alter or correct a certificate of birth, death or fetal death without an affidavit if: (1) the original certificate is still held by the State Registrar or a local registrar and has not been assigned a state file number; or (2) no certified copy of the certificate has been issued. (NAC 440.040) **Section 7** instead limits such authority to a funeral director, certifier or attending physician or advanced practice registered nurse. **Section 7** also removes the requirement that a request for such an alteration be submitted to the State Registrar. Finally, **section 7** removes authorization to alter or correct a certificate without an affidavit if no certified copy of the certificate has been issued.

Existing regulations: (1) authorize the State Registrar to prepare a replacement certificate; and (2) require the information on the certificate to be copied directly from the old certificate to the new certificate where possible. (NAC 440.060) **Section 8** of this regulation provides that, if information necessary to complete a replacement certificate is not included on the original certificate, the information may be added by altering or correcting the certificate using procedures prescribed by regulation. (NAC 440.023-440.040)

Existing regulations require the use of an affidavit to correct a given name when the given name has been omitted from the original certificate. The affidavit must be completed during the lifetime of the child. (NAC 440.080) **Section 9** of this regulation instead requires such an affidavit to be completed not later than 1 year after the birth of the child. **Section 9** also provides that, if both parents are listed on a birth certificate and neither parent is deceased or otherwise incapacitated, both parents must submit separate affidavits agreeing to the addition of a given name to a birth certificate.

Existing law requires the State Registrar to prepare a new birth certificate if the paternity or parentage of a child is submitted by signing a declaration for the voluntary acknowledgment of paternity or parentage, as applicable. (NRS 440.325) **Section 10** of this regulation makes a conforming change to add a reference to a Declaration of Parentage form to existing regulations concerning the preparation of the new certificate.

Existing law requires the State Registrar to prepare and file a supplementary certificate of birth if the State Registrar receives: (1) a certified report of adoption or a copy of an adoption

decree concerning a person born in Nevada; or (2) a certified report of adoption or amendment of adoption concerning certain persons born in a foreign country whose adoptive parents reside in Nevada. (NRS 440.310) Existing regulations require the State Registrar to collect the information needed to complete the “Parent or Mother” and “Parent or Father” sections of the new certificate from the report of adoption form. (NAC 440.120) **Section 11** of this regulation authorizes the State Registrar to collect that information from the certified court order if it is not included on the report of adoption form.

Existing law authorizes an advanced practice registered nurse to sign a medical certificate of death. (NRS 440.380, 632.237) **Sections 12-14** of this regulation make conforming changes to add references to an advanced practice registered nurse to sections of existing regulations concerning certificates of death.

Existing regulations require a funeral director or person who performed a disinterment of human remains to send a copy of the permit for disinterment and file an affidavit for correction of a certificate to the State Registrar within 72 hours after the disinterment. (NAC 440.190) **Section 15** of this regulation instead requires this documentation to be submitted prior to the disinterment.

Existing regulations authorize the State Registrar to accept certain documentary evidence to establish parentage, that a pregnancy occurred, that a live birth occurred and that a homebirth occurred in this State. (Section 5 of LCB File No. R066-16) **Section 16** of this regulation authorizes the State Registrar to accept three affidavits as evidence of a pregnancy if the other acceptable documentary evidence of a pregnancy is not available. **Section 16** also authorizes an appointment between the State Registrar and a parent and child offered as documentary evidence in support of a live birth to be conducted by videoconference if the parent and child reside out of state.

Section 1. Chapter 440 of NAC is hereby amended by adding thereto a new section to read as follows:

A person completing a certificate of death or fetal death must initiate the certificate:

- 1. If initiated by a certifier, not later than 24 hours after the death occurred; or*
- 2. If initiated by a funeral director, not later than 24 hours after the funeral director*

receives the corpse.

Sec. 2. NAC 440.022 is hereby amended to read as follows:

440.022 The State Registrar may furnish any ~~{federal, state or local}~~ *governmental* agency *or covered entity, as defined in 45 C.F.R. §160.103*, 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}~~ *purposes relating to research, epidemiology or legal proceedings or any other purpose deemed by the State Registrar to be* legitimate ;
~~{governmental purpose;}~~ and
4. Pays all applicable fees.

Sec. 3. NAC 440.023 is hereby amended to read as follows:

440.023 1. 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 listed on the certificate, a coroner or medical examiner from the county listed on the certificate or a* certifier or informant listed on the certificate.

2. ~~{A}~~ *Except as otherwise provided in subsections 3 and 4, a* request to alter or correct the medical information on a certificate of birth, death or fetal death must originate with ~~{the}~~ :

(a) *The* certifier of the medical information on the record ~~{;} ; or~~

(b) *For a certificate of death, any county coroner or medical examiner investigating the death.*

3. *If the certifier of the medical information on a certificate of birth, death or fetal death is no longer affiliated with the facility at which the birth, death or fetal death was certified, the medical director of the facility or a person acting in a similar capacity at that facility may alter or correct such medical information if:*

- (a) The medical director or other person submits a request to the State Registrar; and*
- (b) The State Registrar approves the request.*

4. *The State Registrar may correct obvious errors on a certificate of birth, death or fetal death. For the purposes of this subsection, the correction of a name is not an obvious error.*

5. *As used in this section, “medical information” means:*

- (a) For a certificate of birth, the date and time of birth, sex of the child and name of the facility in which a birth occurred; and*
- (b) For a certificate of death or fetal death, the date and hour of death, cause of death or any part of the cause of death and information concerning communicable diseases or injuries.*

Sec. 4. 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~~ *Except as otherwise authorized by NAC 440.040, the* certificate has been assigned a state file number; *or*
- (b) ~~Any certified copy has been issued; or~~
- ~~(c)~~ 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. 5. 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 ~~[-]~~, *which may include, without limitation, a supplementary affidavit if deemed appropriate by the State Registrar.* Any supplementary affidavit must be executed by a person other than the affiant of the principal affidavit.

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. *If medical records that may be used as other verifiable evidence for the purposes of paragraph (b) of subsection 1 are not available, the State Registrar may allow another type of document to be used for that purpose.*

4. *Evidence submitted as other verifiable evidence for the purposes of paragraph (b) of subsection 1 to support the alteration or correction of information concerning the parents of a child on a birth certificate must be dated prior to the birth of the child.*

5. 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. 6. NAC 440.035 is hereby amended to read as follows:

440.035 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 ~~{where the evidence offered to support the action is contradictory or otherwise unsatisfactory;}~~, *unless verifiable evidence indicating that an error occurred is submitted to the State Registrar;*

2. ~~{Consists}~~ *Except as otherwise provided in paragraph (c) of subsection 6 of NRS 440.280, consists* of the substitution of a different name for ~~{a}~~ :

(a) A child whose birth is registered on the certificate and is proposed more than 1 year after the date of the birth; or ~~{a different name for either}~~

(b) 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 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 ~~†~~;

4. *In combination with other alterations or corrections, including, without limitation, alterations or corrections made through previous requests, may change or hide the identity of the person to whom the certificate pertains, as determined by the State Registrar; or*

5. *Except as otherwise provided in this subsection, would change information that has previously been altered or corrected. This subsection does not apply to an alteration or change to the cause of death proposed by the certifier of medical information on a certificate of death or fetal death.*

Sec. 7. NAC 440.040 is hereby amended to read as follows:

440.040 1. A ~~†person~~ *funeral director, certifier or attending physician or advanced practice registered nurse* 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~~ *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) 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.†~~ *A coroner or medical examiner may alter or correct a certificate of death or fetal death without preparing an affidavit in support of the request if a state file number was issued before the coroner or medical examiner conducted an investigation.*

Sec. 8. 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. *If information necessary to complete the replacement certificate is not included on the original certificate, such information may be added by altering or correcting the certificate in the manner prescribed by NAC 440.023 to 440.040, inclusive.*

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.

Sec. 9. 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 report of 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 ~~during the lifetime~~ *not later than 1 year after the birth* 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 a birth certificate and neither parent is deceased or otherwise incapacitated, both parents must submit separate affidavits agreeing to the addition of a given name to the birth certificate before the given name may be added.

Sec. 10. 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 *or Declaration of Parentage* form filed with the State Registrar by ~~the father or mother~~ *a parent*.

Sec. 11. NAC 440.120 is hereby amended to read as follows:

440.120 *1.* 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. ~~It~~ *Except as otherwise provided in subsection 2, 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.

2. The information needed to complete the “Parent or Mother” and “Parent or Father” sections of the *new* certificate *of birth* must be collected from the report of adoption form devised for that purpose by the State Registrar ~~The~~ *or the equivalent officer of another jurisdiction. If the report of adoption form does not contain the information required to complete those sections of the new certificate, the information may be obtained from the certified court order. Except for a last name obtained through marriage or domestic partnership, the* 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. 12. 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 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 advanced practice registered nurse* who has access to the attending physician's *or advanced practice registered nurse's* medical files on the deceased. The associate physician *or 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 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 advanced practice registered nurse* who has access to the medical records of the deceased. The chief medical officer or associate physician *or 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. 13. 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 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 advanced practice registered nurse, as applicable*, 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 advanced practice registered nurse* as having an anticipated life expectancy of not more than 6 months.

Sec. 14. NAC 440.180 is hereby amended to read as follows:

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

Sec. 15. 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}~~ *will perform* 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.

Sec. 16. Section 5 of LCB File No R066-16 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; ~~for~~
 - (c) An ultrasound performed on the applicant during the pregnancy ~~for~~; *or*
 - (d) If the documents described in paragraphs (a), (b) and (c) are not available, affidavits from three persons who have personal knowledge of the pregnancy, none of whom is a parent of the child.*
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 *or, if the parent and child reside outside of this State, by videoconference*, with the State Registrar or a local registrar of vital statistics with the parent and child present. *If an appointment will be conducted by videoconference, the State Registrar must receive the completed documents described in subsections 1, 2 and 4 before the appointment.*
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.