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SENATE BILL NO. 596

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact §§ 32.1-263 and 54.1-2915 of the Code of Virginia, relating to death certificates; medical certification of death.*

Patron—Alexander

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-263 and 54.1-2915 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner.

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death which occurs in this Commonwealth with ~~the any district~~ registrar of the district in which the death occurred within ~~three~~ *five business* days after such death and prior to final disposition or removal of the body from the Commonwealth; and shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:

1. If the place of death is unknown, but the dead body is found in this Commonwealth, a death certificate shall be filed in the registration district in which the dead body is found in accordance with this section. The place where the dead body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation, taking into consideration all relevant information, including but not limited to, information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this Commonwealth, the death shall be registered in this Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall file the certificate of death with the registrar. He shall obtain the personal data, including the social security number of the deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § 46.2-342, from the next of kin or the best qualified person or source available and obtain the medical certification from the person responsible therefor.

C. The medical certification shall be completed, signed in black or dark blue ink, and returned to the funeral director within ~~24 hours~~ *three business days* after death by the physician ~~in charge of the patient's care for the illness or condition which resulted in death who last furnished medical care to the deceased~~, except when inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, or by the physician that pronounces death pursuant to § 54.1-2972.

In the absence of such physician or with his approval, the certificate may be completed and signed by the following: (i) another physician employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) a nurse practitioner practicing as part of a patient care team as defined in § 54.1-2900; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; or (vii) an individual to whom the physician has delegated authority to complete and sign the certificate, if such individual has access to the medical history of the case and death is due to natural causes.

D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death to be made and the medical certification portion of the death certificate to be completed and signed within ~~24 hours~~ *three business days* after being notified of the death. If the Office of the Chief Medical Examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare

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59 and sign the medical certification portion of the death certificate.

60 E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972
61 and the physician, nurse practitioner, or physician assistant is uncertain about the cause of death, he
62 shall use his best medical judgment to certify a reasonable cause of death or contact the health district
63 physician director in the district where the death occurred to obtain guidance in reaching a determination
64 as to a cause of death and document the same.

65 If the cause of death cannot be determined within 24 hours *three business days* after death, the
66 medical certification shall be completed as provided by regulations of the Board. The ~~attending~~
67 physician or the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner
68 appointed pursuant to § 32.1-282 shall give the funeral director or person acting as such notice of the
69 reason for the delay, and final disposition of the body shall not be made until authorized by the
70 ~~attending~~ physician, the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical
71 examiner appointed pursuant to § 32.1-282.

72 F. *If the physician who last furnished medical care to the deceased within the twelve month period*
73 *immediately preceding death knowingly and willfully fails or refuses to complete and sign a certificate*
74 *of death within 10 business days after the death in accordance with subsection C, the funeral director*
75 *shall notify the Office of the Chief Medical Examiner and the Office of the Chief Medical Examiner*
76 *shall take charge of the body, investigate the death in accordance with § 32.1-283, and complete the*
77 *medical certification in accordance with subsection C and shall report to the Board of Medicine the*
78 *name of the physician who knowingly and willfully failed or refused to complete the medical*
79 *certification in accordance with subsection C. In any case in which the Office of the Chief Medical*
80 *Examiner takes charge of a body and completes the investigation and medical certification in*
81 *accordance with this subsection, the physician who knowingly and willfully failed or refused to complete*
82 *the medical certification in accordance with the provisions of subsection C shall reimburse the Office of*
83 *the Chief Medical Examiner for the reasonable cost of services provided in accordance with this section*
84 *in an amount to be determined by the Board.*

85 G. A physician, nurse practitioner, or physician assistant who, in good faith, signs a certificate of
86 death or determines the cause of death shall be immune from civil liability, only for such signature and
87 determination of causes of death on such certificate, absent gross negligence or willful misconduct.

88 **§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.**

89 A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person;
90 place any person on probation for such time as it may designate; impose a monetary penalty or terms as
91 it may designate on any person; suspend any license for a stated period of time or indefinitely; or
92 revoke any license for any of the following acts of unprofessional conduct:

93 1. False statements or representations or fraud or deceit in obtaining admission to the practice, or
94 fraud or deceit in the practice of any branch of the healing arts;

95 2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;

96 3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is
97 likely to cause injury to a patient or patients;

98 4. Mental or physical incapacity or incompetence to practice his profession with safety to his patients
99 and the public;

100 5. Restriction of a license to practice a branch of the healing arts in another state, the District of
101 Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal
102 government;

103 6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in
104 procuring or performing a criminal abortion;

105 7. Engaging in the practice of any of the healing arts under a false or assumed name, or
106 impersonating another practitioner of a like, similar, or different name;

107 8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used
108 otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with
109 respect to the sale, use, or disposition of such drug;

110 9. Violating provisions of this chapter on division of fees or practicing any branch of the healing arts
111 in violation of the provisions of this chapter;

112 10. Knowingly and willfully committing an act that is a felony under the laws of the Commonwealth
113 or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;

114 11. Aiding or abetting, having professional connection with, or lending his name to any person
115 known to him to be practicing illegally any of the healing arts;

116 12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the
117 healing arts;

118 13. Conducting his practice in such a manner as to be a danger to the health and welfare of his
119 patients or to the public;

120 14. Inability to practice with reasonable skill or safety because of illness or substance abuse;

121 15. Publishing in any manner an advertisement relating to his professional practice that contains a
122 claim of superiority or violates Board regulations governing advertising;

123 16. Performing any act likely to deceive, defraud, or harm the public;

124 17. Violating any provision of statute or regulation, state or federal, relating to the manufacture,
125 distribution, dispensing, or administration of drugs;

126 18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100
127 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;

128 19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and
129 patient relationship or otherwise engaging at any time during the course of the practitioner and patient
130 relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;

131 20. Conviction in any state, territory, or country of any felony or of any crime involving moral
132 turpitude; or

133 21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect and
134 the person has not been declared restored to competence or capacity; or

135 22. *Knowingly and willingly failing or refusing to complete a medical certification of death in*
136 *accordance with § 32.1-263.*

137 B. The commission or conviction of an offense in another state, territory, or country, which if
138 committed in Virginia would be a felony, shall be treated as a felony conviction or commission under
139 this section regardless of its designation in the other state, territory, or country.

140 C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or
141 applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended,
142 and has not had his certificate or license to so practice reinstated, in another state, the District of
143 Columbia, a United States possession or territory, or a foreign jurisdiction.