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SENATE BILL NO. 309

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 1, 2018)

(Patron Prior to Substitute—Senator Cosgrove)

A BILL to amend and reenact § 32.1-263 of the Code of Virginia, relating to death certificates; medical certification; electronic filing; hospice.

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-263 of the Code of Virginia is 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 that occurs in the Commonwealth. Non-electronically filed death certificates shall be filed with the registrar of any district in the Commonwealth within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Electronically filed death certificates shall be filed with the State Registrar of Vital Records *through the Electronic Death Registration System* within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Any death certificate 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 the Commonwealth, the death shall be registered in the Commonwealth and 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 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 the Commonwealth, the death shall be registered in the 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 the Commonwealth, the death shall be registered in the 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~~ *complete* the certificate of death ~~with the registrar~~. He shall obtain the personal data of the deceased necessary to *complete the certificate of death*, 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~~ *next of* ~~kin or the~~ best qualified person or source available and obtain the medical certification from the person responsible therefor.

If a licensed funeral director, funeral service licensee, or representative of the office of the state anatomical program completes the certificate of death, he shall file the certificate of death with the State Registrar of Vital Records electronically using the Electronic Death Registration System and in accordance with the requirements of subsection A. If a member of the next of kin of the deceased completes the certificate of death, he shall file the certificate of death in accordance with the requirements of subsection A but shall not be required to file the certificate of death electronically.

C. The medical certification shall be completed, signed in black or dark blue ink, and returned to the funeral director within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death 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. *If the death occurred while under the care of a hospice provider, the medical certification shall be completed by the decedent's health care provider and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System for completion of the death certificate.*

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

60 decedent; or (vii) an individual to whom the physician has delegated authority to complete and sign the
61 certificate, if such individual has access to the medical history of the case and death is due to natural
62 causes.

63 D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by
64 § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death
65 to be made and the medical certification portion of the death certificate to be completed and signed
66 within 24 hours after being notified of the death. If the Office of the Chief Medical Examiner refuses
67 jurisdiction, the physician last furnishing medical care to the deceased shall prepare and sign the medical
68 certification portion of the death certificate.

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

74 If the cause of death cannot be determined within 24 hours after death, the medical certification shall
75 be completed as provided by regulations of the Board. The attending physician or the Chief Medical
76 Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to
77 § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and
78 final disposition of the body shall not be made until authorized by the attending physician, the Chief
79 Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to
80 § 32.1-282.

81 F. A physician, nurse practitioner, or physician assistant who, in good faith, *files or* signs a
82 certificate of death or determines the cause of death shall be immune from civil liability, only for such
83 signature and determination of causes of death on such certificate, absent gross negligence or willful
84 misconduct.