

19105238D

## SENATE BILL NO. 1439

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Education and Health  
on January 17, 2019)

(Patrons Prior to Substitute—Senators McClellan and Cosgrove [SB 1493])

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

**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 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 complete the certificate of death. He shall obtain 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 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 and filed electronically with the State Registrar of Vital Records using the Electronic Death Registration System~~ 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~~ filed 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 in accordance with the provisions of § 54.1-2957; (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; (vii) an individual to whom the physician has delegated authority to complete and ~~sign~~ file the  
61 certificate, if such individual has access to the medical history of the case and death is due to natural  
62 causes; or (viii) a physician *who is not* licensed in another state by the Board of Medicine who was in  
63 charge of the patient's care for the illness or condition that resulted in death. *A physician described in*  
64 *clause (viii) who completes a certificate in accordance with this subsection shall not be required to*  
65 *register with the Electronic Death Registration System or complete the certificate electronically.*

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

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

77 If the cause of death cannot be determined within 24 hours after death, the medical certification shall  
78 be completed as provided by regulations of the Board. The attending physician or the Chief Medical  
79 Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to  
80 § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and  
81 final disposition of the body shall not be made until authorized by the attending physician, the Chief  
82 Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to  
83 § 32.1-282.

84 F. A physician, nurse practitioner, ~~or~~ physician assistant, *or individual delegated authority to*  
85 *complete and file a certificate of death by a physician* who, in good faith, files ~~or signs~~ a certificate of  
86 death or determines the cause of death shall be immune from civil liability, only for such ~~signature~~  
87 *filing* and determination of causes of death on such certificate, absent gross negligence or willful  
88 misconduct.

89 **§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22. Performing the services of a medical examiner as defined in 49 C.F.R. § 390.5 if, at the time such services are performed, the person performing such services is not listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.109 or fails to meet the requirements for continuing to be listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.111; or

23. *Failing or refusing to complete and file electronically using the Electronic Death Registration System any medical certification in accordance with the requirements of subsection C of § 32.1-263. However, failure to complete and file a medical certification electronically using the Electronic Death Registration System in accordance with the requirements of subsection C of § 32.1-263 shall not constitute unprofessional conduct if such failure was the result of a temporary technological or electrical failure or other temporary extenuating circumstance that prevented the electronic completion and filing of the medical certification using the Electronic Death Registration System.*

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

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

**2. That the provisions of the first enactment of this act shall become effective on January 1, 2020.**

**3. That every licensed physician of medicine or osteopathy, physician assistant, and nurse practitioner who practices (i) as a hospitalist or in the specialty of emergency medicine in a hospital or as a medical director at a nursing home located in the Commonwealth shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning July 1, 2019; (ii) in the specialty of family medicine or internal medicine shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning October 1, 2019; (iii) in the specialty of oncology or general surgery shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning November 1, 2019, and (iv) in any other specialty and completes medical certifications of death pursuant to § 32.1-263 of the Code of Virginia shall register with the Electronic Death Registration System and shall file each medical certification of death completed in accordance with the requirements of § 32.1-263 of the Code of Virginia, as amended by this act, electronically with the Electronic Death Registration System beginning December 1, 2019.**

**4. That the Department of Health shall work with the Medical Society of Virginia, Virginia Hospital and Healthcare Association, Virginia Funeral Director's Association, and other stakeholders to educate and encourage physicians, physician assistants, and nurse practitioners to timely register with and utilize the Electronic Death Registration System.**