

Minnesota Attorney General: Administrative Rules Proceedings

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#518 Dept of Health

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 4-18 / 5/2 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 5-8 / 5-12

a. Returned to Agency w/o filing w/Secy of State 5/1
b. Approved 5/3 Date Sent Back to Agency _____

- Orally returned - No HE Report

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N.A.
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable N.A.
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N.A.
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N.A.
17. Petition by Public, where applicable N.A.

STATE OF MINNESOTA BEFORE THE MINNESOTA

COUNTY OF HENNEPI[redacted] [redacted]EPARTMENT OF HEALTH

Rules as Adopted

In the Matter of Proposed Rules
Relating to Vital Statistics

7 MCAR § 1.007 General Provisions.

A. Definitions.

1. "Live birth" shall mean the complete expulsion or extraction of a product of conception from his mother, irrespective of the duration of pregnancy, which after this separation shows any evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether the umbilical cord has been cut or the placenta is attached. Each product of such a birth shall be considered liveborn.

2. "Fetal death" shall mean death prior to the complete expulsion or extraction of a product of conception from his mother, irrespective of the duration of pregnancy. Death after such separation is indicated by the absence of any evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles.

3. "Delayed registration" shall mean a certificate of birth or of death which is filed 6 1 or more ~~months~~ years after the date established by law for such filing.

4. "Date filed" shall mean the date on which a certificate of birth or of death, acceptable for registration under the provisions of the vital statistics act and the rules promulgated thereunder, is first received and subscribed by a local registrar of vital statistics.

B. State Registrar to maintain agreement of records. It shall be the duty of the State Registrar to ensure that the ~~County Record and the duplicate in the custody of the clerk of District Court~~ record on file with the local registrar of the ~~county~~ district in which a birth or death occurred agrees with the original of the birth or the death certificate in his office.

C. Time of birth or of death, procedure for recording. All references to time on vital records shall refer to the time in effect when the event occurred.

D. Providing information. Anyone possessing information concerning a birth, death, or fetal death shall furnish this information when requested by the State or local registrar. No person shall furnish false information in the preparation or the alteration of any vital record or any record used with the burial or the disposition of a human body.

E. Falsified records. The State Registrar may cancel a falsified record during the first 90 days after filing, provided that a correct certificate is filed in its place.

F. Local registrar to keep his files in order. The local registrar shall maintain his files of birth and of death records in a form that permits him to immediately locate any record required by the State Registrar. The local registrar shall file and date all birth and all death certificates acceptable for registration

immediately upon their receipt. Local registrars, other than clerks of District Court and of the cities of ~~the first class~~ Minneapolis and St. Paul shall record them within 3 days in the manner prescribed by the State Registrar, and transmit these certificates to the clerk of the District Court of the county in which the birth or death occurred.

G. Preparation of certificates. Each birth, ~~fetal death, or~~ and death certificate shall be legibly and neatly prepared, preferably typewritten, or if handwritten using a black permanent ink. Each form shall be as complete as possible. The registrar to whom a certificate is submitted shall examine the certificate. He may refuse to accept for ~~filing~~ registration any birth, ~~fetal death,~~ or death certificate which is incomplete, inaccurate, illegible, or mutilated. When a certificate is unacceptable, the person responsible for the original filing shall prepare another certificate acceptable for filing, and submit it to the local registrar within 24 hours.

H. Determination of place of occurence. Whenever a birth, a fetal death, or a death occurs in a moving conveyance, the event shall be considered to have occurred at the place where the child, or the body is initially removed from the conveyance.

I. Transfer of record custody. Upon the written request of the State Registrar, any local official, or other person having custody of any official birth, death, or fetal death records (except as required by the ~~Uniform~~ Vital Statistics Act) shall transfer them to the State Registrar, or to the clerk of District Court, as appropriate.

J. ~~Permanency of local records. The certified resident transcripts filed under Minnesota Statute 144.233 shall be prepared in accordance~~

with the specifications for permanent records recommended by the United States National Bureau of Standards, unless otherwise specified by the State Registrar.

J. The clerk of the District Court of each county and the local registrars of the cities of Minneapolis and St. Paul shall prepare a transcript of birth and death certificates received by him for births and deaths occurring in his registration district on which the place of residence of the mother of a child or that of the decedent is shown to be in another registration district of the state and, upon being satisfied that they are correct, shall immediately transmit such certified transcripts to the local registrars of the registration district shown on the original birth and death certificates to be the place of residence of the mother of the child or of the decedent. But, in any event, he shall transmit such certified transcripts to the local registrar of the registration district of residence not later than the 11th day of the following month. All such certified transcripts shall be filed and indexed. The facts appearing thereon shall be recorded in the registration district birth and death record as provided for original certificates by the Vital Statistics Act and the rules promulgated thereunder, which shall constitute a legal birth and death record. A certified copy of the facts contained in such record shall be considered for all purposes the same as the original certificate.

K. Transmit to State Registrar. On the 11th day of each month the local registrar of each county and of the cities of Minneapolis and St. Paul shall transmit to the State Registrar all original

birth and death certificates received by him on or before the 10th day of that month for births and deaths which occurred during the previous month.

L. Subregistrars. Licensed morticians designated by the State Registrar to receive death certificates for filing, to issue burial permits, and to issue permits for the transportation of dead bodies or dead fetuses within a territory designated by the State Registrar shall be known for purposes of these rules as subregistrars. Subregistrars shall perform duties as prescribed by these rules.

M. Certificate forms. The form of birth and death certificates shall be determined by the Commissioner. The form and use of such certificates shall be subject to the provisions of the Vital Statistics Act and these rules.

N. Fees.

1. Effective July 1, 1979, the fee for the ~~search of the files under one name for a birth or a death certificate shall be $2.00. This fee includes the issuance of either a certified copy or certification that the record cannot be found.~~ issuance of either a certified copy of a birth, death, or marriage record or a certification that the record cannot be found shall be $3.00. No fee shall be charged for a certified copy needed in connection with service in the armed forces or the Merchant Marine of the United States or in the presentation of claims to the United States Veterans Administration or the official veterans administration of any state or territory of the United States or for any copy needed by the commissioner of public welfare in connection with the needs of state wards. No fee shall be charged for

verification of information requested by official agencies of this state, local governments in this state, or the federal government.

2. The fee for the replacement of a birth certificate ~~under the provisions of Minn. Stat. Sec. 144.171, subd. 2, 144.175, or 144.177~~ shall be $3.00.

3. The fee for the filing of a delayed registration of birth or death shall be $4.00.

4. The fee for the alteration, correction, or completion of a birth or death certificate when requested more than one year after the filing of the certificate shall be $2.00.

5. The fee for the verification of information from or noncertified copies of a birth, death, or marriage record shall be $.50 when the applicant furnishes specific information to locate the record. When the applicant does not furnish specific information the fee shall be $5.00 per hour for staff time expended. Specific information shall include the correct date of the event and the correct name of the registrant.

7 MCAR § 1.008 Birth Registration.

A. Birth certificates - filing requirements.

1. A Certificate of Live Birth must be filed for every live birth.

2. The physician, ~~midwife,~~ or other ~~legally authorized~~ person operating under the supervision of a physician in attendance at the birth, or if not so attended, one of the parents, shall within 5 days subscribe and file a certificate of birth on a form prescribed by the ~~State Board of Health~~ Commissioner for that purpose, with the local registrar of the district within which the birth occurred. ~~However, the birth certificate for a child of illegitimate birth shall be filed only with the State Registrar.~~

3. The birth certificate shall be as complete as possible under the circumstances; however, in every case except for a foundling certain minimal information shall be required.

a. Date and place of birth.

b. Maiden name of mother

c. Full name of father (except for ~~illegitimate~~ out-of-wedlock births).

d. Signature of certifier.

4. If neither parent of the newborn child whose birth is unattended as above provided is able to prepare a birth certificate, the local registrar shall secure the necessary information from any person having knowledge of the birth and prepare, record, and file the certificate.

B. Confidential medical supplement. The confidential medical supplement to the birth certificate ~~and to the fetal death certificate~~ shall be completed and filed within 5 days after birth with the State Department of Health by the physician, ~~midwife~~, or other ~~legally authorized~~ person operating under the supervision of a physician in attendance at the birth. If not so attended, one of the parents shall within 5 days after birth complete and file the supplement.

C. Monthly hospital report. On or before the 10th day of each month, the hospital administrator shall submit to the ~~Board~~ State Registrar, on a blank provided by or approved by the ~~Board~~ Commissioner for this purpose, a report of all births, deaths, and fetal deaths occurring in his institution during the previous month.

D. ~~Illegitimate~~ Out-of-wedlock reports. Every ~~illegitimate~~ out-of-wedlock birth shall be reported within 24 hours after the birth of the child, to the Commissioner of Public Welfare, on a form furnished by him.

E. Information confidential. No member of the hospital staff or employee of the hospital shall give information regarding a maternity patient or her child to anyone except an authorized representative of the ~~Board~~ Commissioner or the Commissioner of Public Welfare when the birth ~~of the child is illegitimate or if the legitimacy of the birth is questionable~~ occurred out-of-wedlock.

F. Disposition of fetal remains. When a fetal death occurs in a hospital and the remains are cremated or disposed of by some other means within the hospital, the hospital administrator or other person responsible for this disposition shall be responsible

for the preparation and the filing of the fetal death ~~certificate~~ report.

G. Legitimacy.

1. When the natural father of a child was married to the natural mother at the time of birth or of conception, the birth of the child shall be recorded as legitimate, even when this marriage is established later to be null or bigamous. The birth of a child to a married woman shall be recorded as legitimate unless both the mother and her husband submit written statements to the contrary.

~~2. The surname of a child of illegitimate birth shall be the legal surname of the mother at the time of birth.~~

2. When the father's name is entered on the birth certificate of a child ~~of illegitimate birth~~ born out-of-wedlock before its official filing with the ~~State Registrar~~ local registrar, an affidavit of paternity or a certified copy of the adjudication of paternity report must accompany the birth certificate.

H. Foundling registration. Whoever assumes custody of a live born infant of unknown parentage shall notify the local registrar immediately. A Certificate of Live Birth shall be prepared and "foundling" shall be plainly marked in the top margin. Information on parentage, legitimacy, and other items not specifically required by ~~Minnesota~~ Statute ~~144.162~~ shall be omitted. The certification of the attendant shall be amended to read "I certify that this child was found alive at the place and on the date stated above and that parentage is unknown". The certificate shall be signed by the child's custodian.

7 MCAR § 1.009 Alterations and Amendments of Vital Records.

A. Alteration limitations. To protect the integrity and accuracy of vital statistics records a certificate or record registered under the ~~Uniform~~ Vital Statistics Act may be altered or amended only in accordance with these ~~regulations~~ rules.

B. Court orders. An alteration of a vital record shall be made whenever a court having jurisdiction specifically orders that an alteration be made.

C. Amendments.

1. ~~Clerks of District Court shall be required to send only one verification query to parents or informants.~~ Upon the receipt of a verification query within one year following birth, which contains information to correct or complete a record, the ~~clerk of District Court~~ local registrar shall amend his record when the facts appear to be true.

2. During the first year following a birth or a death, the person responsible for completing or filing the certificate in the first instance may request that the record be corrected or completed. Upon receipt of such a request in writing the registrar shall amend his record when the facts appear to be true.

3. During the first year following birth, the given names of a child may be added to the birth certificate by the registrar, upon receipt of a supplemental report from a parent or the guardian of the child.

4. During the first year following a birth or death, the State Registrar may initiate queries and correct his record on the basis of a written response, when the facts appear to be true.

After amending his record, the State Registrar shall immediately notify the local registrar, who shall then amend his record.

~~5. During the first 6 months following an unattended birth where the parents are unable to prepare a birth certificate, information necessary to complete the birth certificate may be added upon receipt of a supplemental report.~~

6. 5. Corrections and completions of records under the provisions of ~~MHD~~ 9 ~~(e)~~ 7 MCAR § 1.009C. shall not be considered as alterations but rather shall be considered as amendments. The information shall be entered on the record in red ink, dated and initialed by the person making the amendment, and the record shall be marked "amended".

7. 6. When a local registrar amends his record under the provisions of this ~~regulation~~ rule, he shall transmit the written basis for the amendment to the State Registrar on or before the 10th of the following month. Upon receipt of the basis for the amendment, the State Registrar shall amend his record, when the facts appear to be true. However, when the State Registrar believes that the record should not have been amended, he shall immediately notify the local registrar who shall then reamend his record so that it agrees with the original record.

8. 7. The provisions of ~~MHD~~ 9 ~~(e)~~ 7 MCAR § 1.009C. shall not be used to correct or complete information on paternity, legitimacy, or age of decedent, (except that an inconsistency between age and birthdate may be corrected under these provisions) or to make a complete change in family surname without the approval of the State Registrar. The State Registrar shall consider any request for the correction or completion of a death

certificate by a coroner or medical examiner as a request for an amendment. He shall also consider the receipt of an adjudication of paternity report as a request for an amendment.

D. Request for alteration. To alter a vital record a written application must be made, or an order from a court having jurisdiction must be submitted, to the State Registrar, ~~the clerk of District Court~~ or local registrar of the ~~county~~ district where the event occurred, ~~or the health officer of a city of the first class with whom the record is filed~~.

1. To alter a birth certificate, the application shall be made by the registrant when ~~he is 21~~ 18 years of age or older. When ~~he~~ the registrant is less than ~~21~~ 18 years of age, or otherwise unable to sign the application, ~~the application shall be made~~ it may be signed by one of the parents, the guardian, or legal representative.

2. To alter a fetal death certificate, the application shall be made by one of the parents.

3. To alter a death certificate, the application shall be made by the ~~surviving spouse~~ informant, or the nearest lineal relative to the decedent. Amendments of the medical certification may be requested by the attending physician, by the coroner, or by the medical examiner.

E. Certified copy required. Every application to alter a vital record shall be accompanied by a certified copy of the record to be altered. When the alteration is made, a certified copy of the altered certificate shall be issued to the applicant without additional charge. The registrar may waive the requirement for submitting a certified copy for individuals appearing in person or in other cases where he feels it is unnecessary.

F. Evidence required. Every application to alter a vital record shall be accompanied by the appropriate affidavit or statement and the supporting documentation as follows.

1. Place of birth or of death. A minor geographical error which does not involve a change in the regisration district, may be altered on the authority of an affidavit. Any substantial change of the place of birth or of death shall be supported by a minimum of two documents in addition to an affidavit.

2. Date of birth or of death. No alteration of the date of birth or of death shall be made which conflicts with the filing date of the record. All alterations of the date shall be substantiated with documentation in addition to an affidavit. Alterations of the date of birth or of death of 30 days or more shall be supported by a minimum of two documents in addition to an affidavit unless the date of birth or of death is in conflict with the filing date.

3. Sex. To alter the sex designation, a statement from the medical attendant or the hospital administrator shall be required. When this statement cannot be obtained or is not based on records made at the time of birth, other documents, such as baptismal, circumcision, census, or school record, may be accepted. When the applicant requests a change in sex designation that conflicts with the gender implied by the given names on the record, additional documentation may be required. When a sex designation change is requested following surgery, e.g. pseudo-hermaphroditism or transsexualism, the sex designation may be altered by the State Registrar to conform with a written statement from the surgeon who performed the operation.

4. Name of child. When the name has been omitted on the birth certificate, it may be added during the first 7 years on the authority of an affidavit signed by a parent or the guardian. After the first 7 years, documentation shall be required, in addition to an affidavit. When the name has previously been recorded on the birth certificate, minor spelling errors may be corrected on the basis of an affidavit. However, any substantial or complete change in the names shall be supported by documentation, in addition to an affidavit. This documentation for a complete change of name must prove that the original entry was erroneous or that the change in name was made prior to the registrant's seventh birthday. Otherwise, the change cannot be made without a court order or a legal change of name. A reversal of given names or a change where the replacement word is a nickname, a foreign equivalent or is similar in pronounciation shall not be considered a complete change but shall be supported by documentation in addition to an affidavit. The surname shall be altered only to conform with the parent's surname unless specified otherwise in these ~~regulations~~ rules. ~~(An affidavit shall be sufficient basis for such an alteration.)~~

5. Legal change of name. Upon receipt of a certified copy of a court order changing the name of the registrant and upon request of such person or his parent, guardian, or legal representative, the birth certificate shall be altered to show the new name. Upon receipt of a certified copy of a court order changing the name of a parent, the birth certificate may be altered to show the new name when it is necessary to establish agreement with the surname of the child or when the legal change of name was made prior to the birth.

6. Other names. The following alterations may be made on the authority of an affidavit.

a. Correction of minor spelling errors.

b. On a birth certificate, the addition of parents' middle names. On a death certificate the addition of decedent's middle name, or the addition of his parents' or spouse's name.

Documentation in addition to an affidavit shall be required for any substantial or complete change in names, or for the addition of the mother's maiden surname on a birth certificate.

A minimum of two supporting documents in addition to an affidavit shall be required for a complete change of the father's given name on a birth certificate.

A certified copy of a court order from a court having jurisdiction shall be required for a complete change of the family surname on a birth certificate, or for a complete change of the decedent's name on a death certificate.

~~A reversal of given names or a change where the replacement word is a nickname, or a foreign equivalent or is similar in pronunciation shall not be considered a complete change.~~

7. Paternity. Paternity information for a child ~~of illegitimate birth~~ born out-of-wedlock shall be entered on the birth or the death certificate by the ~~State Registrar~~ registrar only when the father has acknowledged his paternity by affidavit or has been adjudged the father by a court having jurisdiction. Upon receipt of an adjudication of paternity report along with information necessary to identify and amend the birth certificate, ~~from a clerk of District Court,~~ the ~~State Registrar~~ registrar shall record the father's name in accordance with the report. Whenever

any District Court shall determine that the man designated on a birth certificate or on a death certificate as the father of a child ~~of illegitimate birth~~ born out-of-wedlock is not, in fact, the father of that child, the clerk of District Court shall forward to the State Registrar a certified copy of that court's judgment. The State Registrar shall then correct the paternity designation of the birth certificate or the death certificate and permanently file a copy of this judgment.

8. Alias. When a person has established a second name through usage (this shall not include married names) or has used two different names interchangeably over a period of years, and when this additional information shall contribute to his personal identification, the second name may be added to the birth or the death record with the notation "also known as". The original name shall not be lined out or obliterated. Entries of this nature shall be supported by documentation in addition to an affidavit. Upon receipt of proof of marriage the State Registrar or local registrar may add the surname of the stepfather after the surname of a child ~~of illegitimate birth~~ born out-of-wedlock when the stepfather and the mother have given their consent in affidavit form and have indicated that the child is also known under the new surname. (The requirement for the mother's consent may be waived when the mother is dead). Upon the recommendation of the Commissioner of Public Welfare, the State Registrar or local registrar may add the surname of the foster parent to the birth certificate of a ~~child~~ ~~of illegitimate birth~~ State ward when the foster parent has given his consent in affidavit form, and has indicated that the child is also known under the new surname.

9. Identification of an unnamed person. The death certificate of a person for whom the name is unknown at the time of its filing may be amended to record the name and personal particulars when the coroner or the medical examiner has identified the person. The amendment shall be made on the authority of a statement from the coroner or the medical examiner that identifies the record to be amended and states that the identity of this previously unknown person has been established.

10. Legitimacy. Upon receipt of proof that a birth has been erroneously recorded as legitimate, the State Registrar or local registrar shall alter or amend the ~~legitimacy status and the surname of the child so that it conforms to the legal surname of the mother as of the time of birth. The State Registrar shall direct the local registrar to cancel or seal the local record~~ birth certificate to reflect the true facts. Sufficient proof shall be:

a. An adjudication of paternity document showing that the father is someone other than the man recorded as the father on the birth certificate.

b. An affidavit of nonpaternity From the man recorded as the father accompanied by an affidavit from the mother that corroborates this affidavit.

Upon receipt of proof that a birth has been erroneously recorded as illegitimate, the State Registrar shall replace the birth certificate as in the case of a legitimation.

11. Color or race. Documentation shall be required to alter the color or race designation in addition to an affidavit.

12. Cause of death. The cause of death or any related items of the medical certification may be altered or amended on the basis of a statement from the attending physician, coroner or medical examiner who signed the original certificate. However, for any case in which the coroner or medical examiner has assumed jurisdiction, an amendment may be made on the basis of his statement even when he did not sign the certificate originally.

13. Age of the deceased. Documentation shall be required for an alteration in the age listed for the deceased, except that when the age and the birthdate shown on the record are inconsistent, either item may be altered to conform with the other on the basis of an affidavit.

14. Signatures. Signatures shall not be altered or obliterated.

15. Filing date. A filing date shall not be altered under any circumstances. However, when the presence of an error can be documented, the State Registrar may authorize the addition of a note to the record which summarizes the available facts related to the error.

16. Information previously altered. Any alteration of a delayed registration or a previously altered item of information (except for cause of death information) shall be supported by a minimum of two documents, in addition to an affidavit, unless it can be shown that the previous alteration was made in error.

17. Other items. An alteration of information for which specific written evidence has not been prescribed may be altered by the authority of an affidavit.

18. Additional written evidence required. The State Registrar shall require additional documentation in support of any alteration the implementation of which would appear to threaten the integrity of the Vital Statistics System.

G. Documents. The documents used to substantiate the facts for an alteration of a birth certificate shall be the earliest documents available. When the earliest document supporting an alteration of birthdate or birthplace was established more than 7 years after birth, additional documentation shall be required. Additionally, the documents shall:

1. Be without any sign of erasure, alteration, or any change of the pertinent information.

2. Indicate the date and by whom the original document was made.

3. Be at least 5 years old, except when altering the birth certificate of a young child, this requirement may be waived.

H. Method of altering vital records. All alterations shall be made on the face of the record in red ink. One line shall be drawn through the original entry and the new information shall be entered above it. When a line is drawn through the original entry, it must not obliterate it. The record shall be marked "altered", dated, and endorsed. A summary statement of the evidence shall also be cited on the record, ~~as provided by Minnesota Statute 144.172~~. When the summary statement of the evidence, the date and endorsement cannot be shown on the record because of space limitations, the registrar shall file this information in a manner which will permit it to be readily matched with the altered record.

I. Abstract of documentation required. When convinced that the requirements for alteration have been met, the registrar shall abstract the facts of birth or of death, recorded in the documents. He shall also list the name and type of document, including by whom issued and signed, and the date of issue along with the date the original document was established. In addition, he shall certify that the documentation reviewed confirms the facts as cited.

J. Requirements for affidavits.

1. The affidavit supporting an application for alteration shall be submitted in duplicate (except when the birth or death occurred before 1900, the duplicate copy is not required). Unless otherwise specified, it shall be signed, when possible, by the nearest lineal relative. When there are no lineal relatives having personal knowledge of the facts, the registrant when ~~21~~ 18 years of age or older may write "no known living kin" on the affidavit and sign it himself. However, in these instances, additional documentation may be required to support the alteration.

2. Both the original and the duplicate copy of the affidavit shall bear the signatures of each attester. After the alteration has been made, the duplicate copy of the affidavit, and the required abstract of documentation shall be filed by the local registrar. The original affidavit and the abstract of documentation, shall be filed by the State Registrar.

K. Duties of the State Registrar. It shall be the duty of the State Registrar to ensure agreement of the records on file in his office with the record on file with the ~~clerks of District Court and with the~~ local ~~health officers of cities of the first class~~ registrar in the district where the event occurred.

Whenever an application for an alteration is approved, and whenever a record is amended as a result of the amendment procedure under ~~MHD~~ 9 ~~(e)~~ 7 MCAR § 1.009C., the State Registrar shall notify ~~the clerk of the District Court, or~~ the local registrar ~~of a city of the first class~~ where the event occurred, and approve the alteration of the local record. Except as he shall otherwise authorize, only the State Registrar shall make alterations or amendments of the original birth, death and fetal death records.

L. Duties of ~~the clerk of District Court and~~ local registrars ~~of cities of the first class.~~

1. He shall ensure agreement of the records on file in his office and the records on file with any other local registrar within his registration district. When an alteration or amendment has been approved by the State Registrar, the ~~clerk of District~~ local registrar shall notify any local registrar within his registration district and direct him to alter his record.

2. He shall ensure agreement of the records on file in his office and the records on file with another local registrar to whom a certified resident transcript has been sent ~~under the provisions of Minnesota Statute 144.203~~. He shall notify the ~~clerk of District Court~~ local registrar in the ~~county~~ district of residence where the certified resident transcript was sent whenever an alteration or amendment has been approved by the State Registrar. Upon receipt of this notice, the ~~clerk of District Court~~ local registrar in the ~~county~~ district of residence shall alter or amend his record.

3. Upon the direction of the State Registrar, he shall alter the records on file in his office to conform with the records on file with the State Registrar.

4. He shall review applications for alterations of vital records, and alter his records when it appears that the legal requirements have been met. When the birth or the death occurred in 1900 or later, he shall transmit the appropriate statements or affidavits, and the abstract of documentation to the State Registrar for his approval.

~~5. He shall initiate queries, as provided under Minnesota Statutes 144.201 and 144.202, and amend his records in the manner prescribed by MHD 9 (e). He shall transmit to the State Registrar with his monthly shipment of records, the verification form or other written basis for the amendment.~~

M. Local referrals to the State Registrar. Whenever a ~~clerk of the District Court or a~~ local registrar ~~in a city of the first class~~ is uncertain of the acceptability of the information presented in support of an alteration, the case shall be referred to the State Registrar for his review prior to the actual altering of the local record. When an alteration of paternity, legitimacy, cause of death, or sex designation resulting from surgery, is requested, the local registrar shall immediately submit the request to the State Registrar unless the State Registrar has specifically authorized the local registrar to make these alterations without referral.

N. Duties of local registrar of a federal reservation and of a city other than one of the first class.

1. When directed by the clerk of the District Court, he shall alter or amend the records on file in his office in the manner provided by these ~~regulations~~ rules.

2. He shall apprise the clerk of the District Court of any inaccuracies in the records on file in his office and refer each application for alteration to the clerk of the District Court or to the State Registrar, as the case may require.

7 MCAR § 1.010 Replacement of Birth Records.

A. Replacement certificate. A replacement certificate shall be made and filed only as prescribed in this ~~regulation~~ rule. The fact of replacement shall not be shown on the replacement certificate. The date and the place of birth shall be transcribed from the original birth certificate. The original filing date, certificate number, and any information that is consistent with information appearing on the documents that serve as the basis for the replacement, shall also be transcribed. Following the replacement of a birth certificate, the original birth certificate and its related documents, which are on file with the State Registrar, shall be placed in an envelope and sealed. The local registrar shall file a copy of the replacement certificate and seal any previously filed local record, as directed by the State Registrar.

B. Adoption. Upon the receipt of a certificate of adoption, or a certified copy of a decree of adoption accompanied by the information necessary to identify the original birth certificate, the State Registrar shall prepare and file a replacement certificate. This replacement certificate shall include the new name of the child and the names and the personal particulars of the adopting parents.

C. Legitimation. When the natural parents of a child ~~of illegitimate birth~~ born out-of-wedlock marry each other subsequent to the birth of their child, and upon receipt of proof of paternity and of thier marriage, the State Registrar shall prepare and file a replacement certificate. This replacement certificate shall

include the new name of the child and the name and the personal particulars of the natural father.

1. Proof of marriage -- a certified copy of the marriage record shall constitute proof of marriage.

2. Proof of paternity -- an adjudication of paternity report shall constitute proof of paternity, or an affidavit of paternity shall constitute proof of paternity when no other man has been recorded as father on the birth certificate. When some other man has been recorded as father on the basis of a paternity affidavit, the new affidavit of paternity can be accepted only with an affidavit of nonpaternity signed by the man originally named as father, and an affidavit from the mother agreeing with the legitimation.

D. Adjudication. After a court having jurisdiction adjudicates the facts of birth under the provisions of Minnesota Statute ~~144.171~~ 144.218 Subdivision ~~2~~ 4, and upon his receipt of a certified copy of the court judgment the State Registrar shall prepare and file a replacement certificate to show these findings. After a court having jurisdiction adjudicates the facts of birth without reference to Minnesota Statute ~~144.171~~ 144.218 Subdivision ~~2~~ 4, and upon receipt of a certified copy of the court judgment and a court order to replace the original birth certificate, the State Registrar shall prepare and file a replacement certificate in accordance with these findings.

E. Delayed Registrations. When no certificate of birth is on file for the person for whom a replacement certificate is to be made, a delayed registration of birth shall be filed with the State Registrar as provided in ~~MHD 11~~ 7 MCAR § 1.011, before a replacement

certificate is filed, except that when the date and place of birth and parenta[redacted] have been established i[redacted]ourt proceedings, a delayed registration shall not be required. However, the replacement certificate shall be marked "delayed", and shall show the abstract of documentation, as provided in ~~MHD 11~~ 7 MCAR § 1.011.

F. Alteration of replacement certificate. A replacement certificate shall not be altered except on the basis of a legal change of name. When it can be shown that the replacement was erroneously completed, another replacment certificate shall be prepared and filed.

G. Foreign births. Each certificate prepared under the provision of Minnesota Statute ~~144.176~~ 144.218 Subdivision 2 shall be plainly marked "This certificate was filed by the State Registrar under the provisions of Minnesota Statute ~~144.176~~ 144.218 Subdivision 2 and is not evidence of United States Citizenship". Each certified copy or certification of such a certificate shall be similarly marked.

7 MCAR § 1.011 Delayed Registrations.

A. Delayed registration of birth. The registration of a birth later than the time prescribed for filing but within ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "late birth registration". Filing shall be subject to the requirements of ~~MHD-11(e)~~ 7 MCAR § 1.011C., but shall not be labeled a "delayed registration". The registration of a birth subsequent to 6 ~~months~~ 1 year after the time prescribed for filing shall be considered a "delayed birth registration".

B. Who may apply for the establishment of a delayed registration of birth. Any person born in the State of Minnesota whose birth is not recorded, or his parent, his guardian, or his legal representative may apply for the establishment of a delayed registration.

C. Procedures and requirements for filing delayed registrations within 7 years of birth.

1. A delayed birth registration filed within 7 years of birth shall be completed and filed in the same manner of birth certificates filed on time except that it shall be plainly marked "delayed".

2. Delayed birth registrations filed within 7 years of birth shall be prepared and filed on the Certificate of Live Birth form being used at the time of filing. To be acceptable for filing, the certificate must be signed by the physician, ~~midwife~~, or other person operating under the supervision of a physician in attendance at the birth; or when the birth occurred in a hospital, by the hospital administrator or by his designated representative.

When the physician or other person who attended the birth is not available, or when the birth occurred outside a hospital, it may be signed by one of the parents or the guardian, if accompanied by an affidavit explaining why the certificate could not be signed by the attendant.

3. The State Registrar or the local registrar may require additional substantiation of the facts of birth or an explanation of the delay in filing when there appears to be adequate justification.

D. Procedures and requirements for filing delayed birth registrations 7 years or more after birth.

1. An application for an establishment of a delayed birth registration 7 years or more after birth shall be made to ~~the clerk of the District Court or to~~ the local registrar ~~of a city~~ of the ~~first class~~ district in which the birth occurred, except that applications for ~~illegitimate~~ births which occurred out-of-wedlock and for cases where the names have been established by adoption or legitimation shall be made to the State Registrar. The application shall be accompanied by evidence that the record is not on file ~~in the State Vital Statistics office~~. For births occurring in 1900 or later, the application shall be made in duplicate.

2. These facts concerning the person whose birth is to be registered must be established:

a. The name of the person at the time of birth; however, the delayed registration may reflect a name established by adoption or legitimation when this evidence is submitted to the State Registrar.

b. The date and the place of birth.

c. The names of the parents; except when the birth ~~was illegitimate~~ occurred out-of-wedlock, the name of the father shall not be entered on the delayed birth registration unless the paternity has been determined.

3. Delayed birth registration 7 years or more after birth shall be prepared and filed on a form prescribed by the State Registrar. The form shall include an affidavit signed by the parent. guardian, or the nearest lineal relative who has personal knowledge of the facts of birth. When there are no lineal relatives having personal knowledge of the facts and the registrant is ~~21~~ 18 years of age or older, he may write "no known living kin" on the affidavit and sign it himself.

4. Documentation required to support the affidavit shall consist of the physician's record of the birth, or if the child was born in a hospital or ambulance service, a statement from the hospital administrator certifying the hospital record of birth. Either of these completed documents shall constitute sufficient evidence to establish a delayed birth registration when the record contains information on all the facts which must be established. When neither of these documents is available, other documentation may suffice.

a. In addition to the affidavit, the date and the place of birth shall be authenticated by a minimum of two supporting documents.

b. In addition to the affidavit, the facts of parentage shall be supported by documentation.

5. The documents used to substantiate the facts for the establishment of a delayed registration shall be the earliest

documents available. When the earliest document supporting the establishment of birthdate or birthplace was established more than 7 years after birth, additional documentation shall be required. Additionally, the documents shall:

a. Be without any sign of erasure, alteration, or any change of the pertinent information.

b. Indicate the date and by whom the original document was made.

c. Be at least 5 years old, except that when filing a birth certificate for a young child, this requirement may be waived.

6. Abstract of documentation required. When convinced that the requirements for establishing a delayed birth registration have been met, the registrar shall abstract on the delayed registration form the facts of birth recorded in the document. He shall also list the name and type of document, including by whom issued and signed, and the date of issue along with the date the original document was established. In addition, he shall certify that this is the only birth registration on file for this person and that the documentary evidence submitted to determine the facts of birth has been reviewed, and that it confirms the facts as cited.

7. Filing delayed registrations. After the registrar has made the abstract and certification of documentation, he shall sign, date, and file the duplicate copy and immediately transmit the original copy to the State Registrar. (Delayed registrations of birth occurring prior to 1900 shall be filed only with the local registrar.) The State Registrar shall review the delayed

registration certificate and when acceptable, he shall sign, date, and file the certificate. He shall also notify the local registrar of this action. When the State Registrar finds a delayed registration certificate to be unacceptable for filing, he shall notify the local registrar within 10 days, giving a clear explanation for the rejection. Upon receipt of a notice of rejection, the local registrar shall not issue any certification or certified copy of the certificate until the cause for rejection has been removed.

E. Cancellation of records. When the State Registrar contends that a delayed registration was established through fraud, he shall notify in writing the person named in the certificate of his intention to cancel the certificate. The notice may be sent by registered mail to the person whom the record purports to certify, or in the case of a minor or incompetent, to his parent or guardian at his last known address. The notice shall permit the person to appear and dispute the cancellation. Unless this person responds within 30 days after the date of mailing, the State Registrar shall cancel the certificate.

F. Delayed registrations of death. The registration of a death after the time prescribed for filing but within ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "late death registration". Its filing shall be subject to the requirements of ~~MHB 11 (g)~~ 7 mCAR § 1.011G., but it shall not be labeled a "delayed registration". The registration of a death subsequent to ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "delayed death registration".

G. Procedures and requirements for delayed death registration. Delayed registrations shall be completed and filed in the same manner as death certificates filed on time. To be acceptable for filing, the death certificate must be signed by the physician, the coroner, or the medical examiner and, if possible, by the funeral director, mortician, or by the other person responsible for the disposition of the body. When statements cannot be obtained from both the person responsible for the medical certification and the person in charge of the disposition, the case shall be referred directly to the State Registrar for his determination of other confirmatory evidence which may suffice. When neither the physician's, coroner's, or medical examiner's statement nor the statement of the person in charge of the disposition is available only a court finding as to the fact of death will suffice to establish a delayed death registration. The State Registrar or the local registrar may require additional substantiation of the facts of death or an explanation of the delay in filing when there appears to be adequate justification.

H. Manner prescribed by the ~~Board~~ Commissioner for preservation of delayed registration evidence. The ~~Board~~ Commissioner prescribes that written evidence used for establishing delayed registrations of birth or of death, or used in the alteration of certificates of birth or of death shall be preserved in one of the following forms: abstracts, certified copies, microfilm images, or photographic copies. These forms shall be completed by the officers empowered to issue delayed certificates of birth or of death or to make material alterations on certificates of birth or of death. When acceptable to all parties concerned, the original evidence may be preserved in lieu of a certified copy or an abstract.

7 MCAR § 1.012 Certification

A. Certification of altered records.

1. Certified copies and certifications of altered records which are certified to be "full and complete" or "true and correct" copies shall show the alteration and the statement, "any alterations shown were made under the authority of ~~Minnesota Statute 144.172~~ the Vital Statistics Act and the ~~regulations~~ rules of the ~~State Board of Health~~ Commissioner," shall be printed or typed on the certified copy of the certification.

2. Certifications of altered records which are not certified to be "full and complete" or "true and correct" copies need not show the alteration.

3. Certified copies and certifications of delayed registration records which are certified to be "full and complete" or "true and correct" copies shall include the basis for the establishment of the delayed registration including an abstract of the documentation supporting the establishment of the delayed registration. All certifications of delayed registration records shall include the statement, "This delayed registration was established under the authority of the ~~Uniform~~ Vital Statistics Act and the rules of the Commissioner."

B. Abstract of birth in stepfather's name. The State Registrar may issue an abstract of birth under the surname of the stepfather for a child ~~of illegitimate birth~~ born out-of-wedlock, if the stepfather has given his consent in affidavit form. His wife shall join in the affidavit. Information of parentage and of legitimacy status shall not appear on the birth abstract.

C. Abstract of birth in foster parents' name. Upon recommendation of the Commissioner of Public Welfare, the State Registrar may issue an abstract of birth under the surname of the foster parents for a ~~child of illegitimate birth~~ State ward when they have given their consent in affidavit form. Information of parentage and of legitimacy status shall not appear on the birth abstract.

D. Restricted Certification. Sections of the birth and fetal death record entitled "for medical and health use only" or "supplementary information" shall be excluded from certified copies, unless specifically requested by the applicant.

E. Prima facie evidence.

1. Birth and death certificates filed within 1 year of the event shall be prima facie evidence of the facts stated therein. Data pertaining to the father of a child are prima facie evidence only if the alleged father is the husband of the mother; if not, the data pertaining to the father of a child are not evidence in any proceeding adverse to the interests of the alleged father, or of his heirs, next of kin, devisees, legatees or other successors in interest, if the paternity is controverted.

2. A copy of a birth or death certificate when certified by the State Registrar or a local registrar shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein, provided that the evidentiary value of a certificate filed more than 1 year after the event shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

7 MCAR § 1.013 Access to Records.

A. Information for commercial use. The State Registrar, ~~the~~ and local registrars, ~~and the clerks of the District Court~~ shall not furnish gratis or for purchase information identifying persons recorded in a birth or death certificate to be used for commercial purposes (publication in official newspapers shall not be considered as a commercial purpose). Neither shall hospital administrators, nor funeral directors or morticians use or furnish vital statistics information for such purposes.

B. Unauthorized certification prohibited. No person shall prepare or issue any certificate which purports to be an original, certified copy, certification or certificate of birth, death, or fetal death, except as authorized by the ~~Minnesota Statutes, 144.151 - 144.204 (Uniform~~ Vital Statistics Act~~)~~.

C. Upon receipt of a written request or completed application, the State Registrar or local registrar shall issue a copy of or verify information from a vital record. In determining whether or not to allow an applicant to do his own searching of the records, the registrar shall consider the physical condition of the records to be searched and whether or not a file contains private or confidential data. The State Registrar may permit persons performing medical research access to information pertaining to out-of-wedlock births if those persons agree in writing not to disclose private data on individuals.

7 MCAR § 1.014 Death Registration.

A. Death certificate. A death certificate must be filed for every known death, by the mortician, funeral director or other person in charge of the disposition of the body with the local registrar of the registration district within which the death occurred or with a subregistrar designated by the State Registrar to receive death certificates for filing within that territory. If the place of death is not known the death certificate shall be filed with the local registrar of the registration district within which the body was found, or with a subregistrar, within 24 hours thereafter. The certificate shall be filed prior to interment or other disposition of the body or in any case witnin 5 days after the occurrence.

B. Fetal death ~~certificate~~ report. A fetal death ~~certificate~~ report must be filed for the death of each fetus for whom 20 or more weeks of gestation have elapsed. Each fetal death which occurs within the state shall be reported within 5 days to the State Registrar on a blank provided by or approved by the State Registrar for this purpose. The mortician, funeral director, hospital administrator, or other person in charge of the disposition of the remains, shall be responsible for making this report. He shall secure personal data for the report from the best source available. This source may be the next of kin, hospital records, or the records of a coroner or medical examiner. He shall obtain the medical portion of the report from the physician or other person in attendance at the delivery of the fetus, or if not attended, from one of the parents or from the coroner or medical examiner.

C. Completion of death certificate. The mortician, funeral director, or other person in charge of the disposition of the body shall secure personal data from the best source available. This source may be, the next of kin, hospital or institutional records, or the records of a coroner or medical examiner. He shall secure the medical certification of cause of death from the physician last in attendance upon the deceased, or from the coroner or medical examiner having jurisdiction. He shall notify the local registrar when it is impossible to obtain the medical certification from the physician last in attendance or from the coroner or medical examiner. The local registrar shall immediately refer the case to the local health officer for investigation and certification of cause of death upon the basis of information from the most reliable source available.

D. Referrals to coroner or medical examiner. The mortician, funeral director, or other person in charge of the disposition of the body shall notify the coroner or medical examiner before moving a body from the site of death in any case where he is unable to obtain firm assurance from the physician that the medical certification will be signed. In addition, the case shall be referred to the coroner or medical examiner whenever circumstances suggest that the death was caused by other than natural causes, or where the body is to be disposed of in some manner which prevents later examination, or when the decedent was an inmate of a public institution who was not hospitalized for organic disease.

E. Physician in attendance. The term "physician in attendance upon the deceased" shall mean the physician who treated the deceased for the illness or condition which led to death. When the "physician in attendance" is unavailable to certify the cause of death, an associate or another physician shall be authorized to certify the cause of death when he has access to the medical history of the case, provided that he views the deceased at or after death.

F. Medical certification. The physician, coroner, or medical examiner shall certify the cause of death and return the certificate or report to the mortician or funeral director promptly, so that a reasonable amount of time is available for the mortician or funeral director to obtain the necessary Permit for Disposition prior to disposition. When the physician, the coroner, or the medical examiner cannot complete his study and certify the cause of death before burial, cremation, or removal, but the body is no longer required for his diagnosis, the diagnosis may be deferred. (When the diagnosis is to be deferred, the certifier must date and sign the medical certification portion and check the deferred diagnosis space on the death certificate or the fetal death ~~certificate~~ report). The deferred diagnosis procedure shall apply only when there is a reasonable expectation that an autopsy, other diagnostic method, or investigation may significantly change the diagnosis. This procedure shall not apply when the cause of death is in doubt, but where no further diagnostic procedures can be carried out. In this case, the "probable" cause shall be entered on the basis of the facts available and the certification made in accordance with the best judgment of the certifier.

G. Deaths from undetermined circumstances. Deaths shall be classified as due to undetermined circumstances only when it is impossible to establish the circumstances of death.

H. Monthly report of deaths.

1. Every person providing a casket for any final disposition of a dead human body shall maintain a record showing the name of the purchaser, the purchaser's post office address, the name of the deceased, the date of death, and the place at which the death occurred. This record shall be open to inspection by the State Registrar at all times. On or before the 10th day of each month the establishment providing caskets shall report, on a blank provided for the purpose, to the State Registrar those facts that he shall require for the preceeding month. No person selling caskets solely to distributors, morticians, or funeral directors shall be required to keep this record.

2. Every person providing a casket at retail, and not having charge of the dispostion of the body, shall enclose within the casket a notice furnished by the State Registrar calling attention to the requirements of the law, a blank certificate of death, and the statutes and ~~regulations~~ rules of the ~~State Board of Health~~ Commissioner for the disposition of a dead body.

I. Dead body not found. When circumstances suggest that a death has occurred although a dead body cannot be produced to confirm the fact of death, a death certificate shall not be filed until a court having jurisdiction has adjudged the fact of death. A certified copy of the court finding must be attached to the death certificate when it is presented for filing.

7 MCAR § 1.015 Burial -- Transit -- Removal Permits.

A. Permit for disposition -- when required.

1. A Permit for Disposition shall be required for burial, cremation, transportation by common carrier, removal out-of-state, removal from a registration district, for disinterment and reinterment, or for the retention of a dead human body more than 5 days. It shall be issued by the local registrar or a subregistrar, of the place of death, or if necessary to avoid delay, by the State Registrar.

2. The permit shall contain the information required on the form supplied by the ~~State Board of Health~~ Commissioner and shall be signed by the following persons: the local registrar or the subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When a communicable disease is the cause of death, the permit shall be signed by the mortician who prepared the body. When a firm name is subscribed on the Permit for Disposition, it shall be accomapnied by the personal signature of a licensed member of that firm.

B. Notice of removal permit. Whenever it is impossible to secure a proper certificate or permit for disposition without great delay, the dead human body may be moved by private conveyance from its present registration district to another registration district within the state for burial preparation using the Notice of Removal provided by the State Registrar. Before removing the body, the attending mortician, or when death is not from a communicable disease the funeral director, shall obtain assurance that the cause of death will be certified prior to final

disposition of the body. Within 18 hours following the removal, he shall mail or hand the notice of removal to the local registrar. The notice shall explain the failure to obtain the usual permit for disposition and include the date, and time of removal, and place to which the body shall be moved.

C. Ashes of the dead. Cremation of a dead human body shall be considered as a final disposition of that body. No additional permit is required for transportation or disposition of the ashes of cremation.

D. Issuance of a permit. The permit for disposition may be issued by a local registrar, a subregistrar, or if necessary to avoid delay, by the State Registrar, however,

1. No permit shall be issued until the death certificate or the fetal death ~~certificate~~ report has been filed. Each certificate or report shall be as complete as possible under the circumstances: however, in every case certain minimal information shall be required.

a. The name and the age of the deceased or the coroner's identification.

b. The date and place of death or the place where the body was found.

c. The medical certification. See 7 MCAR § 1.014 F.

d. Information on disposition.

2. No permit shall be issued without receiving an assurance of compliance with the regulations governing disposition of the dead.

3. The subregistrar shall write upon each death certificate filed with him, the date of the filing, his name, and forward it to the local registrar of the proper district within 3 days after receipt.

E. Use and filing permit. Until the time of the final disposition, the permit shall be in the possession of the person in charge of the body, or attached to its shipping container. In localities requiring local issuance of disposition permits, the original permit shall be presented to the Health Officer with the request for the reissuance of a permit. At this time, the permit shall be filed with the person in charge of the cemetery or crematory. Where there is no person or corporation responsible for the maintenance of a cemetery, the mortician or funeral director in charge of interment in this cemetery shall write above his signature upon the permit(s) issued "no association, person, or corporation responsible for this cemetery" with the name of the cemetery and the city, village, or township and county in which it is located. This permit shall then be mailed to the State Registrar.

F. Cemetery official to be appointed. Individuals, associations, or corporations owning or operating cemeteries shall appoint some person to be responsible both for receiving and filing, and preserving Permits for Disposition ~~and for the enforcement of the statutes requiring permits for interments or cremations.~~ The sexton or other person acting as such shall not permit the interment or cremation of a dead human body until a burial permit issued under the provisions of the Vital Statistics Act and these rules has been filed with him. He shall keep a record of all

interments and cremations stating the name of the deceased, place of death, date of burial or cremation, and name and address of the attending mortician or funeral director.

G. Death outside state, burial permit. When a death or fetal death occurs outside this state and the body is accompanied by a permit for burial, removal, or other disposition issued in accordance with the laws and rules in force where the death or fetal death occurred, the permit shall authorize the transportation of the body into or through this state but before the burial, cremation or other disposition of the body within this state a local burial permit shall be issued by the local registrar of the district where disposal is to be made, or by a subregistrar or, if necessary to avoid delay, by the State Registrar. The permit accompanying the body into this state shall, together with the local burial permit, be filed with the sexton who shall keep a record thereof as provided in 7 MCAR § 1.015F.

APPROVED AS TO FORM AND LEGALITY

MAY 4 1979 19___

WARREN SPANNAUS, ATTORNEY GENERAL

BY Lee E. Sheley

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
F I L E D
MAY - 3 1979
Joan Anderson Growe
Secretary of State
2:45 PM

nesota 55101, after proper notice required by Minn. Stat. § 15.0412 (Supp. 1977) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose and after proper publication of such notice in the *State Register*.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony and considered all of the evidence adduced, together with the Report of Hearing Examiner and the Findings of Fact of the Commissioner of Insurance herein, and having determined that the above-captioned proposed rules are not in accordance with all substantive requirements of law, that it would be unreasonable to adopt the rules as proposed, and that modification of the proposed rules would require substantial change,

Now, therefore, it is ordered that these rules, identified as Minn. Rules Ins 300 through 307, are hereby withdrawn this 1st day of December, 1978, pursuant to the authority vested in the Commissioner of Insurance by Minn. Stat. §§ 15.0412 and 62A.025 (1976 and Supp. 1977).

December 1, 1978.

Berton W. Heaton
Commissioner of Insurance.

Department of Health
Vital Statistics Division

Proposed Amendments to Rules Relating to Vital Statistics

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on January 22, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments to Minn. Rules 7 MCAR §§ 1.007-1.015 (MHD 7-15) captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8118, either before the hearing or within five (5) days after the close of the hearing. The Hearing Examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the proposed amendments would increase the fee for a certified copy of a birth, death, or marriage certificate; provide a fee schedule for the verification of information from, or a noncertified copy of, a birth, death, or marriage record; and allow the registrar to restrict physical access to vital records in certain cases. Specifically, the proposed amendments would:

1. Increase the fee for a certified copy of a birth, death, or marriage certificate from $2.00 to $3.00.

2. Provide a fee of $.50 for the verification of information from or a noncertified copy of a birth, death, or marriage record when specific information is furnished to locate the record and a $5.00 per hour fee when specific information is not furnished.

3. Allow the registrar to permit or deny an applicant's request to do his own searching of the records after considering such things as the physical condition of the records, whether or not a file contains private or confidential data, the registrar's workload at the time the request is received, and the urgency of the request.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to Frederick L. King, State Registrar of Vital Statistics, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

Notice: The proposed amendments are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendments to participate in the rule hearing process.

The statutory authority of the Commissioner to promulgate and adopt these rules is contained in Minn. Stat. §§ 144.11-.12 (1976) and Minn. Stat. §§ 144.151-.227 (1976) as amended by Laws 1978, ch. 699.

Notice is hereby given that 25 days prior to the hearing, a

statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

December 1, 1978

Warren R. Lawson, M.D.
Commissioner of Health

Rules as Proposed

7 MCAR § 1.007 General provisions.

A. Definitions.

1. "Live birth" shall mean the complete expulsion or extraction of a product of conception from his mother, irrespective of the duration of pregnancy, which after this separation shows any evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether the umbilical cord has been cut or the placenta is attached. Each product of such a birth shall be considered liveborn.

2. "Fetal death" shall mean death prior to the complete expulsion or extraction of a product of conception from his mother, irrespective of the duration of pregnancy. Death after such separation is indicated by the absence of any evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles.

3. "Delayed registration" shall mean a certificate of birth or of death which is filed 6 1 or more ~~months~~ years after the date established by law for such filing.

4. "Date filed" shall mean the date on which a certificate of birth or of death, acceptable for registration under the provisions of the vital statistics act and the rules promulgated thereunder, is first received and subscribed by a local registrar of vital statistics.

B. State Registrar to maintain agreement of records. It shall be the duty of the State Registrar to ensure that the ~~County~~ Record ~~and the~~ duplicate ~~in the custody of the clerk of District Court~~ record on file with the local registrar of the ~~county~~ district in which a birth or death occurred agrees with the original of the birth or the death certificate in his office.

C. Time of birth or of death, procedure for recording. All references to time on vital records shall refer to the time in effect when the event occurred.

D. Providing information. Anyone possessing information concerning a birth, death, or fetal death shall furnish this information when requested by the State or local registrar. No person shall furnish false information in the preparation or the alteration of any vital record or any record used with the burial or the disposition of a human body.

E. Falsified records. The State Registrar may cancel a falsified record during the first 90 days after filing, provided that a correct certificate is filed in its place.

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F. Local registrar to keep his files in order. The local registrar shall maintain his files of birth and of death records in a form that permits him to immediately locate any record required by the State Registrar. The local registrar shall file and date all birth and all death certificates acceptable for registration immediately upon their receipt. Local registrars, other than clerks of District Court and of the cities of ~~the first class~~ Minneapolis and St. Paul shall record them within 3 days in the manner prescribed by the State Registrar, and transmit these certificates to the clerk of the District Court of the county in which the birth or death occurred.

G. Preparation of certificates. Each birth, ~~fetal death, or~~ and death certificate shall be legibly and neatly prepared, preferably typewritten, or if handwritten using a black permanent ink. Each form shall be as complete as possible. The registrar to whom a certificate is submitted shall examine the certificate. He may refuse to accept for ~~filing~~ registration any birth, ~~fetal death,~~ or death certificate which is incomplete, inaccurate, illegible, or mutilated. When a certificate is unacceptable, the person responsible for the original filing shall prepare another certificate acceptable for filing, and submit it to the local registrar within 24 hours.

H. Determination of place of occurrence. Whenever a birth, a fetal death, or a death occurs in a moving conveyance, the event shall be considered to have occurred at the place where the child or the body is initially removed from the conveyance.

I. Transfer of record custody. Upon the written request of the State Registrar, any local official, or other person having custody of any official birth, death, or fetal death records (except as required by the ~~Uniform~~ Vital Statistics Act) shall transfer them to the State Registrar, or to the clerk of District Court, as appropriate.

~~J. Permanency of local records. The certified resident transcripts filed under Minnesota Statute 144.203 shall be prepared in accordance with the specifications for permanent records recommended by the United States National Bureau of Standards, unless otherwise specified by the State Registrar.~~

J. The clerk of the District Court of each county and the local registrars of the cities of Minneapolis and St. Paul shall prepare a transcript of birth and death certificates received by him for births and deaths occurring in his registration district on which the place of residence of the mother of a child or that of the decedent is shown to be in another registration district of the state and, upon being satisfied that they are correct, shall immediately transmit such certified transcripts to the local registrars of the registration district shown on the original birth and death certificates to be the place of residence of the mother of the child or of the decedent. But, in any event, he shall transmit such certified transcripts to the local registrar of the registration district of residence not later than the 11th day of the following month. All such certified transcripts shall be filed and indexed. The facts appearing thereon shall be recorded in the registration district birth and death record as provided for original certificates by the Vital Statistics Act and the rules promulgated thereunder, which shall constitute a legal birth and death record. A certified copy of the facts contained in such record shall be considered for all purposes the same as the original certificate.

K. Transmit to State Registrar. On the 11th day of each month the local registrar of each county and of the cities of Minneapolis and St. Paul shall transmit to the State Registrar all original birth and death certificates received by him on or before the 10th day of that month for births and deaths which occurred during the previous month.

L. Subregistrars. Licensed morticians designated by the State Registrar to receive death certificates for filing, to issue burial permits, and to issue permits for the transportation of dead bodies or dead fetuses within a territory designated by the State Registrar shall be known for purposes of these rules as subregistrars. Subregistrars shall perform duties as prescribed by these rules.

M. Certificate forms. The form of birth and death certificates shall include as a minimum the items required by the respective standard certificates as recommended by the National Center for Health Statistics subject to the approval of and modification by the Commissioner. The form and use of such certificates shall be subject to the provisions of the Vital Statistics Act and these rules.

N. Fees.

1. The fee for the ~~search of the files under one name for a birth or a death certificate shall be $2.00. This fee includes the issuance of either a certified copy or certification that the record cannot be found.~~ issuance of either a certified copy of a birth, death, or marriage record or a certification that the record cannot be found shall be $3.00. No fee shall be charged for a certified copy needed in connection with service in the armed forces or the Merchant Marine of the United States or in the presentation of claims to the United States Veterans Administration or the official veterans administration of any state or territory of the United States or for any copy needed by the commissioner of public welfare in connection with the needs of state wards. No fee shall be charged for verification of information requested by official agencies of this state, local governments in this state, or the federal government.

2. The fee for the replacement of a birth certificate ~~under the provisions of Minn. Stat. §§ 144.171 subd. 2, 144.176, or 144.177~~ shall be $3.00.

3. The fee for the filing of a delayed registration of birth or death shall be $4.00.

4. The fee for the alteration, correction, or completion of a birth or death certificate when requested more than one year after the filing of the certificate shall be $2.00.

5. The fee for the verification of information from or a noncertified copy of a birth, death, or marriage record shall be $.50 when the applicant furnishes specific information to locate the record. When the applicant does not furnish specific information the fee shall be $5.00 per hour. Specific information shall include at least the correct date of the event and the correct name of the registrant.

7 MCAR § 1.008 Birth registration.

A. Birth certificates — filing requirements.

1. A Certificate of Live Birth must be filed for every live birth.

2. The physician, ~~midwife,~~ or other ~~legally authorized~~ person operating under the supervision of a physician in attendance at the birth, or if not so attended, one of the parents, shall within 5 days subscribe and file a certificate of birth on a form prescribed by the ~~State Board of Health~~ Commissioner for that purpose, with the local registrar of the district within which the birth occurred. ~~However, the birth certificate for a child of illegitimate birth shall be filed only with the State Registrar.~~

3. The birth certificate shall be as complete as possible under the circumstances; however, in every case except for a foundling certain minimal information shall be required.

a. Date and place of birth.

b. Maiden name of mother.

c. Full name of father (except for ~~illegitimate~~ out-of-wedlock births).

d. Signature of certifier.

4. If neither parent of the newborn child whose birth is unattended as above provided is able to prepare a birth certificate, the local registrar shall secure the necessary information from any person having knowledge of the birth and prepare, record, and file the certificate.

B. Confidential medical supplement. The confidential medical supplement to the birth certificate ~~and to the fetal death certificate~~ shall be completed and filed within 5 days after birth with the State Department of Health by the physician, ~~midwife,~~ or other ~~legally authorized~~ person operating under the supervision of a physician in attendance at the birth. If not so attended, one of the parents shall within 5 days after birth complete and file the supplement.

C. Monthly hospital report. On or before the 10th day of each month, the hospital administrator shall submit to the ~~Board~~ State Registrar, on a blank provided by or approved by the ~~Board~~ Commissioner for this purpose, a report of all births, deaths, and fetal deaths occurring in his institution during the previous month.

D. ~~Illegitimate~~ Out-of-wedlock birth reports. Every ~~illegitimate~~ out-of-wedlock birth shall be reported within 24 hours after the birth of the child, to the Commissioner of Public Welfare, on a form furnished by him.

E. Information confidential. No member of the hospital staff or employee of the hospital shall give information regarding a maternity patient or her child to anyone except an authorized representative of the ~~Board~~ Commissioner or the Commissioner of Public Welfare when the birth ~~of the child is illegitimate or if the legitimacy of the birth is questionable~~ occurred out-of-wedlock.

F. Disposition of fetal remains. When a fetal death occurs in a hospital and the remains are cremated or disposed of by some other means within the hospital, the hospital administrator or other person responsible for this disposition shall be responsible for the preparation and the filing of the fetal death ~~certificate~~ report.

G. Legitimacy.

1. When the natural father of a child was married to the natural mother at the time of birth or of conception, the birth of the child shall be recorded as legitimate, even when this marriage is established later to be null or bigamous. The birth of a child to a married woman shall be recorded as legitimate unless both the mother and her husband submit written statements to the contrary.

~~2. The surname of a child of illegitimate birth shall be the legal surname of the mother at the time of birth.~~

2. When the father's name is entered on the birth certificate of a child ~~of illegitimate birth~~ born out-of-wedlock

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before its official filing with the ~~State Registrar~~ local registrar, an affidavit of paternity or a certified copy of the adjudication of paternity report must accompany the birth certificate.

H. Foundling registration. Whoever assumes custody of a live born infant of unknown parentage shall notify the local registrar immediately. A Certificate of Live Birth shall be prepared and "foundling" shall be plainly marked in the top margin. Information on parentage, legitimacy, and other items not specifically required by ~~Minnesota~~ Statute ~~144.162~~ shall be omitted. The certification of the attendant shall be amended to read "I certify that this child was found alive at the place and on the date stated above and that parentage is unknown". The certificate shall be signed by the child's custodian.

7 MCAR § 1.009 Alterations and amendments of vital records.

A. Alteration limitations. To protect the integrity and accuracy of vital statistics records a certificate or record registered under the ~~Uniform~~ Vital Statistics Act may be altered or amended only in accordance with these ~~regulations~~ rules.

B. Court orders. An alteration of a vital record shall be made whenever a court having jurisdiction specifically orders that an alteration be made.

C. Amendments.

1. ~~Clerks of District Court shall be required to send only one verification query to parents or informants.~~ Upon the receipt of a verification query within one year following birth, which contains information to correct or complete a record, the ~~clerk of District Court~~ local registrar shall amend his record when the facts appear to be true.

2. During the first year following a birth or a death, the person responsible for completing or filing the certificate in the first instance may request that the record be corrected or completed. Upon receipt of such a request in writing the registrar shall amend his record when the facts appear to be true.

3. During the first year following birth, the given names of a child may be added to the birth certificate by the registrar, upon receipt of a supplemental report from a parent or the guardian of the child.

4. During the first year following a birth or death, the State Registrar may initiate queries and correct his record on the basis of a written response, when the facts appear to be true. After amending his record, the State Registrar shall immediately notify the local registrar, who shall then amend his record.

~~5. During the first 6 months following an unattended birth where the parents are unable to prepare a birth certificate, information necessary to complete the birth certificate may be added upon receipt of a supplemental report.~~

~~6.~~ 5. Corrections and completions of records under the provisions of ~~MHD~~ 9 ~~(c)~~ 7 MCAR § 1.009 C. shall not be considered as alterations but rather shall be considered as amendments. The information shall be entered on the record in red ink, dated and initialed by the person making the amendment, and the record shall be marked "amended."

~~7.~~ 6. When a local registrar amends his record under the provisions of this ~~regulation~~ rule, he shall transmit the written basis for the amendment to the State Registrar on or before the 10th of the following month. Upon receipt of the basis for the amendment, the State Registrar shall amend his record, when the facts appear to be true. However, when the State Registrar believes that the record should not have been amended, he shall immediately notify the local registrar who shall then reamend his record so that it agrees with the original record.

~~8.~~ 7. The provisions of ~~MHD~~ 9 ~~(c)~~ 7 MCAR § 1.009 C. shall not be used to correct or complete information on paternity, legitimacy, or age of decedent, (except that an inconsistency between age and birthdate may be corrected under these provisions) or to make a complete change in family surname without the approval of the State Registrar. The State Registrar shall consider any request for the correction or completion of a death certificate by a coroner or medical examiner as a request for an amendment. He shall also consider the receipt of an adjudication of paternity report as a request for an amendment.

D. Request for alteration. To alter a vital record a written application must be made, or an order from a court having jurisdiction must be submitted, to the State Registrar, ~~the clerk of District Court~~ or local registrar of the ~~county~~ district where the event occurred, ~~or the health officer of a city of the first class with whom the record is filed.~~

1. To alter a birth certificate, the application shall be made by the registrant when ~~he is 21~~ 18 years of age or older. When ~~he~~ the registrant is less than ~~21~~ 18 years of age, or otherwise unable to sign the application, ~~the application shall be made~~ it may be signed by one of the parents, the guardian, or legal representative.

2. To alter a fetal death certificate, the application shall be made by one of the parents.

3. To alter a death certificate, the application shall be made by the ~~surviving spouse~~ informant, or the nearest lineal relative to the decedent. Amendments of the medical certification may be requested by the attending physician, by the coroner, or by the medical examiner.

E. Certified copy required. Every application to alter a vital record shall be accompanied by a certified copy of the record to be altered. When the alteration is made, a certified copy of the altered certificate shall be issued to the applicant without additional charge. The registrar may waive the requirement for submitting a certified copy for individuals appearing in person or in other cases where he feels it is unnecessary.

F. Evidence required. Every application to alter a vital record shall be accompanied by the appropriate affidavit or statement and the supporting documentation as follows.

1. Place of birth or of death. A minor geographical error which does not involve a change in the registration district may be altered on the authority of an affidavit. Any substantial change of the place of birth or of death shall be supported by a minimum of two documents in addition to an affidavit.

2. Date of birth or of death. No alteration of the date of birth or of death shall be made which conflicts with the filing date of the record. All alterations of the date shall be substantiated with documentation in addition to an affidavit. Alterations of the date of birth or of death of 30 days or more shall be supported by a minimum of two documents in addition to an affidavit unless the date of birth or of death is in conflict with the filing date.

3. Sex. To alter the sex designation, a statement from the medical attendant or the hospital administrator shall be required. When this statement cannot be obtained or is not based on records made at the time of birth, other documents, such as baptismal, circumcision, census, or school record, may be accepted. When the applicant requests a change in sex designation that conflicts with the gender implied by the given names on the record, additional documentation may be required. When a sex designation change is requested following surgery, e.g., pseudohermaphroditism or transexualism, the sex designation may be altered by the State Registrar to conform with a written statement from the surgeon who performed the operation.

4. Name of child. When the name has been omitted on the birth certificate, it may be added during the first 7 years on the authority of an affidavit signed by a parent or the guardian. After the first 7 years, documentation shall be required, in addition to an affidavit. When the name has previously been recorded on the birth certificate, minor spelling errors may be corrected on the basis of an affidavit. However, any substantial or complete change in the names shall be supported by documentation, in addition to an affidavit. This documentation for a complete change of name must prove that the original entry was erroneous or that the change in name was made prior to the registrant's seventh birthday. Otherwise, the change cannot be made without a court order or a legal change of name. A reversal of given names or a change where the replacement word is a nickname, a foreign equivalent or is similar in pronounciation shall not be considered a complete change but shall be supported by documentation in addition to an affidavit. The surname shall be altered only to conform with the parent's surname unless specified otherwise in these ~~regulations~~ rules. ~~(An affidavit shall be sufficient basis for such an alteration.)~~

5. Legal change of name. Upon receipt of a certified copy of a court order changing the name of the registrant and upon request of such person or his parent, guardian, or legal representative, the birth certificate shall be altered to show the new name. Upon receipt of a certified copy of a court order changing the name of a parent, the birth certificate may be altered to show the new name when it is necessary to establish agreement with the surname of the child or when the legal change of name was made prior to the birth.

6. Other names. The following alterations may be made on the authority of an affidavit.

a. Correction of minor spelling errors.

b. On a birth certificate, the addition of parents' middle names. On a death certificate the addition of decedent's middle name, or the addition of his parents' or spouse's name.

Documentation in addition to an affidavit shall be required for any substantial or complete change in names, or for the addition of the mother's maiden surname on a birth certificate.

A minimum of two supporting documents in addition to an affidavit shall be required for a complete change of the father's given name on a birth certificate.

A certified copy of a court order from a court having jurisdiction shall be required for a complete change of the family surname on a birth certificate, or for a complete change of the decedent's name on a death certificate.

~~A reversal of given names or a change where the replacement word is a nickname, or a foreign equivalent or is similar in pronounciation shall not be considered a complete change.~~

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7. Paternity. Paternity information for a child of ~~illegitimate birth~~ born out-of-wedlock shall be entered on the birth or the death certificate by the ~~State Registrar~~ registrar only when the father has acknowledged his paternity by affidavit or has been adjudged the father by a court having jurisdiction. Upon receipt of an adjudication of paternity report along with information necessary to identify and amend the birth certificate, ~~from a clerk of District Court,~~ the ~~State Registrar~~ registrar shall record the father's name in accordance with the report. Whenever any District Court shall determine that the man designated on a birth certificate or on a death certificate as the father of a child ~~of illegitimate birth~~ born out-of-wedlock is not, in fact, the father of that child, the clerk of District Court shall forward to the State Registrar a certified copy of that court's judgment. The State Registrar shall then correct the paternity designation of the birth certificate or the death certificate and permanently file a copy of this judgment.

8. Alias. When a person has established a second name through usage (this shall not include married names) or has used two different names interchangeably over a period of years, and when this additional information shall contribute to his personal identification, the second name may be added to the birth or the death record with the notation "also known as". The original name shall not be lined out or obliterated. Entries of this nature shall be supported by documentation in addition to an affidavit. Upon receipt of proof of marriage the State Registrar or local registrar may add the surname of the stepfather after the surname of a child ~~of illegitimate birth~~ born out-of-wedlock when the stepfather and the mother have given their consent in affidavit form and have indicated that the child is also known under the new surname. (The requirement for the mother's consent may be waived when the mother is dead). Upon the recommendation of the Commissioner of Public Welfare, the State Registrar or local registrar may add the surname of the foster parent to the birth certificate of a ~~child of illegitimate birth~~ State ward when the foster parent has given his consent in affidavit form, and has indicated that the child is also known under the new surname.

9. Identification of an unnamed person. The death certificate of a person for whom the name is unknown at the time of its filing may be amended to record the name and personal particulars when the coroner or the medical examiner has identified the person. The amendment shall be made on the authority of a statement from the coroner or the medical examiner that identifies the record to be amended and states that the identity of this previously unknown person has been established.

10. Legitimacy. Upon receipt of proof that a birth has been erroneously recorded as legitimate, the State Registrar or local registrar shall alter or amend the ~~legitimacy status and the surname of the child so that it conforms to the legal surname of the mother as of the time of birth. The State~~ Registrar shall direct the ~~local registrar to cancel or seal the local record~~ birth certificate to reflect the true facts. Sufficient proof shall be:

a. An adjudication of paternity document showing that the father is someone other than the man recorded as the father on the birth certificate.

b. An affidavit of nonpaternity from the man recorded as the father accompanied by an affidavit from the mother that corroborates this affidavit.

Upon receipt of proof that a birth has been erroneously recorded as illegitimate, the State Registrar shall replace the birth certificate as in the case of a legitimation.

11. Color or race. Documentation shall be required to alter the color or race designation in addition to an affidavit.

12. Cause of death. The cause of death or any related items of the medical certification may be altered or amended on the basis of a statement from the attending physician, coroner or medical examiner who signed the original certificate. However, for any case in which the coroner or medical examiner has assumed jurisdiction, an amendment may be made on the basis of his statement even when he did not sign the certificate originally.

13. Age of the deceased. Documentation shall be required for an alteration in the age listed for the deceased, except that when the age and the birthdate shown on the record are inconsistent, either item may be altered to conform with the other on the basis of an affidavit.

14. Signatures. Signatures shall not be altered or obliterated.

15. Filing date. A filing date shall not be altered under any circumstances. However, when the presence of an error can be documented, the State Registrar may authorize the addition of a note to the record which summarizes the available facts related to the error.

16. Information previously altered. Any alteration of a delayed registration or a previously altered item of information (except for cause of death information) shall be supported by a minimum of two documents, in addition to an affidavit, unless it can be shown that the previous alteration was made in error.

17. Other items. An alteration of information for which specific written evidence has not been prescribed may be altered by the authority of an affidavit.

18. Additional written evidence required. The State Registrar shall require additional documentation in support

of any alteration the implementation of which would appear to threaten the integrity of the Vital Statistics System.

G. Documents. The documents used to substantiate the facts for an alteration of a birth certificate shall be the earliest documents available. When the earliest document supporting an alteration of birthdate or birthplace was established more than 7 years after birth, additional documentation shall be required. Additionally, the documents shall:

1. Be without any sign of erasure, alteration, or any change of the pertinent information.

2. Indicate the date and by whom the original document was made.

3. Be at least 5 years old, except when altering the birth certificate of a young child, this requirement may be waived.

H. Method of altering vital records. All alterations shall be made on the face of the record in red ink. One line shall be drawn through the original entry and the new information shall be entered above it. When a line is drawn through the original entry, it must not obliterate it. The record shall be marked "altered," dated, and endorsed. A summary statement of the evidence shall also be cited on the record, ~~as provided by Minnesota Statute 144.172~~. When the summary statement of the evidence, the date and endorsement cannot be shown on the record because of space limitations, the registrar shall file this information in a manner which will permit it to be readily matched with the altered record.

I. Abstract of documentation required. When convinced that the requirements for alteration have been met, the registrar shall abstract the facts of birth or of death, recorded in the documents. He shall also list the name and type of document, including by whom issued and signed, and the date of issue along with the date the original document was established. In addition, he shall certify that the documentation reviewed confirms the facts as cited.

J. Requirements for affidavits.

1. The affidavit supporting an application for alteration shall be submitted in duplicate (except when the birth or death occurred before 1900, the duplicate copy is not required). Unless otherwise specified, it shall be signed, when possible, by the nearest lineal relative. When there are no lineal relatives having personal knowledge of the facts, the registrant when ~~21~~ 18 years of age or older may write "no known living kin" on the affidavit and sign it himself. However, in these instances, additional documentation may be required to support the alteration.

2. Both the original and the duplicate copy of the affidavit shall bear the signatures of each attester. After the alteration has been made, the duplicate copy of the affidavit and the required abstract of documentation shall be filed by the local registrar. The original affidavit and the abstract of documentation shall be filed by the State Registrar.

K. Duties of the State Registrar. It shall be the duty of the State Registrar to ensure agreement of the records on file in his office with the record on file with the ~~clerks of District Court and with the~~ local ~~health officers of cities of the first class~~ registrar in the district where the event occurred. Whenever an application for an alteration is approved, and whenever a record is amended as a result of the amendment procedure under ~~MHD 9 (e)~~ 7 MCAR § 1.009 C., the State Registrar shall notify ~~the clerk of the District Court, or~~ the local registrar ~~of a city of the first class~~ where the event occurred, and approve the alteration of the local record. Except as he shall otherwise authorize, only the State Registrar shall make alterations or amendments of the original birth, death and fetal death records.

L. Duties of ~~the clerk of District Court and~~ local registrars ~~of cities of the first class~~.

1. He shall ensure agreement of the records on file in his office and the records on file with any other local registrar within his registration district. When an alteration or amendment has been approved by the State Registrar, the ~~clerk of District~~ local registrar shall notify any local registrar within his registration district and direct him to alter his record.

2. He shall ensure agreement of the records on file in his office and the records on file with another local registrar to whom a certified resident transcript has been sent ~~under the provisions of Minnesota Statute 144.203~~. He shall notify the ~~clerk of District Court~~ local registrar in the ~~county~~ district of residence where the certified resident transcript was sent whenever an alteration or amendment has been approved by the State Registrar. Upon receipt of this notice, the ~~clerk of District Court~~ local registrar in the ~~county~~ district of residence shall alter or amend his record.

3. Upon the direction of the State Registrar, he shall alter the records on file in his office to conform with the records on file with the State Registrar.

4. He shall review applications for alterations of vital

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records, and alter his records when it appears that the legal requirements have been met. When the birth or the death occurred in 1900 or later, he shall transmit the appropriate statements or affidavits and the abstract of documentation to the State Registrar for his approval.

~~5. He shall initiate queries, as provided under Minnesota Statutes 144.201 and 144.202, and amend his records in the manner prescribed by MHD 9 (c). He shall transmit to the State Registrar with his monthly shipment of records, the verification form or other written basis for the amendment.~~

M. Local referrals to the State Registrar. Whenever a ~~clerk of the District Court or a~~ local registrar ~~in a city of the~~ first class is uncertain of the acceptability of the information presented in support of an alteration, the case shall be referred to the State Registrar for his review prior to the actual altering of the local record. When an alteration of paternity, legitimacy, cause of death, or sex designation resulting from surgery is requested, the local registrar shall immediately submit the request to the State Registrar unless the State Registrar has specifically authorized the local registrar to make these alterations without referral.

N. Duties of local registrar of a federal reservation and of a city other than one of the first class.

1. When directed by the clerk of the District Court, he shall alter or amend the records on file in his office in the manner provided by these ~~regulations~~ rules.

2. He shall apprise the clerk of the District Court of any inaccuracies in the records on file in his office and refer each application for alteration to the clerk of the District Court or to the State Registrar, as the case may require.

7 MCAR § 1.010 Replacement of birth records.

A. Replacement certificate. A replacement certificate shall be made and filed only as prescribed in this ~~regulation~~ rule. The fact of replacement shall not be shown on the replacement certificate. The date and the place of birth shall be transcribed from the original birth certificate. The original filing date, certificate number, and any information that is consistent with information appearing on the documents that serve as the basis for the replacement, shall also be transcribed. Following the replacement of a birth certificate, the original birth certificate and its related documents, which are on file with the State Registrar, shall be placed in an envelope and sealed. The local registrar shall file a copy of the replacement certificate and seal any previously filed local record, as directed by the State Registrar.

B. Adoption. Upon the receipt of a certificate of adoption, or a certified copy of a decree of adoption accompanied by the information necessary to identify the original birth certificate, the State Registrar shall prepare and file a replacement certificate. This replacement certificate shall include the new name of the child and the names and the personal particulars of the adopting parents.

C. Legitimation. When the natural parents of a child ~~of illegitimate birth~~ born out-of-wedlock marry each other subsequent to the birth of their child, and upon receipt of proof of paternity and of their marriage, the State Registrar shall prepare and file a replacement certificate. This replacement certificate shall include the new name of the child and the name and the personal particulars of the natural father.

1. Proof of marriage — a certified copy of the marriage record shall constitute proof of marriage.

2. Proof of paternity — an adjudication of paternity report shall constitute proof of paternity, or an affidavit of paternity shall constitute proof of paternity when no other man has been recorded as father on the birth certificate. When some other man has been recorded as father on the basis of a paternity affidavit, the new affidavit of paternity can be accepted only with an affidavit of nonpaternity signed by the man originally named as father, and an affidavit from the mother agreeing with the legitimation.

D. Adjudication. After a court having jurisdiction adjudicates the facts of birth under the provisions of Minn. Stat. § ~~144.171~~ 144.218, subd. ~~2~~ 4, and upon his receipt of a certified copy of the court judgment the State Registrar shall prepare and file a replacement certificate to show these findings. After a court having jurisdiction adjudicates the facts of birth without reference to Minn. Stat. § ~~144.171~~ 144.218, subd. ~~2~~ 4, and upon receipt of a certified copy of the court judgment and a court order to replace the original birth certificate, the State Registrar shall prepare and file a replacement certificate in accordance with these findings.

E. Delayed registrations. When no certificate of birth is on file for the person for whom a replacement certificate is to be made, a delayed registration of birth shall be filed with the State Registrar as provided in ~~MHD 11~~ 7 MCAR § 1.011, before a replacement certificate is filed, except that when the date and place of birth and parentage have been established in court proceedings, a delayed registration shall not be required. However, the replacement certificate shall be marked "delayed," and shall show the abstract of documentation, as provided in ~~MHD 11~~ 7 MCAR § 1.011.

F. Alteration of replacement certificate. A replacement certificate shall not be altered except on the basis of a legal change of name. When it can be shown that the replacement was erroneously completed, another replacement certificate shall be prepared and filed.

G. Foreign births. Each certificate prepared under the provision of Minn. Stat. § ~~144.176~~ 144.218, subd. 2 shall be

plainly marked "This certificate was filed by the State Registrar under the provisions of Minn. Stat. § ~~144.176~~ 144.218, subd. 2 and is not evidence of United States Citizenship." Each certified copy or certification of such a certificate shall be similarly marked.

7 MCAR § 1.011 Delayed registrations.

A. Delayed registration of birth. The registration of a birth later than the time prescribed for filing but within 6 ~~months~~ 1 year after the time prescribed for filing shall be considered a "late birth registration." Filing shall be subject to the requirements of ~~MHD 11(e)~~ 7 MCAR § 1.011C., but shall not be labeled a "delayed registration." The registration of a birth subsequent to 6 ~~months~~ 1 year after the time prescribed for filing shall be considered a "delayed birth registration."

B. Who may apply for the establishment of a delayed registration of birth. Any person born in the State of Minnesota whose birth is not recorded, or his parent, his guardian, or his legal representative may apply for the establishment of a delayed registration.

C. Procedures and requirements for filing delayed registrations within 7 years of birth.

1. A delayed birth registration filed within 7 years of birth shall be completed and filed in the same manner of birth certificates filed on time except that it shall be plainly marked "delayed."

2. Delayed birth registrations filed within 7 years of birth shall be prepared and filed on the Certificate of Live Birth form being used at the time of filing. To be acceptable for filing, the certificate must be signed by the physician, ~~midwife,~~ or other person operating under the supervision of a physician in attendance at the birth; or when the birth occurred in a hospital, by the hospital administrator or by his designated representative. When the physician or other person who attended the birth is not available, or when the birth occurred outside a hospital, it may be signed by one of the parents or the guardian, if accompanied by an affidavit explaining why the certificate could not be signed by the attendant.

3. The State Registrar or the local registrar may require additional substantiation of the facts of birth or an explanation of the delay in filing when there appears to be adequate justification.

D. Procedures and requirements for filing delayed birth registrations 7 years or more after birth.

1. An application for an establishment of a delayed birth registration 7 years or more after birth shall be made to ~~the clerk of the District Court or to~~ the local registrar ~~of a city~~ of the ~~first class~~ district in which the birth occurred, except that applications for ~~illegitimate~~ births which occurred out-of-wedlock and for cases where the names have been established by adoption or legitimation shall be made to the State Registrar. The application shall be accompanied by evidence that the record is not on file ~~in the State Vital Statistics Office~~. For births occurring in 1900 or later, the application shall be made in duplicate.

2. These facts concerning the person whose birth is to be registered must be established:

a. The name of the person at the time of birth; however, the delayed registration may reflect a name established by adoption or legitimation when this evidence is submitted to the State Registrar.

b. The date and the place of birth.

c. The names of the parents; except when the birth ~~was illegitimate~~ occurred out-of-wedlock, the name of the father shall not be entered on the delayed birth registration unless the paternity has been determined.

3. Delayed birth registration 7 years or more after birth shall be prepared and filed on a form prescribed by the State Registrar. The form shall include an affidavit signed by the parent, guardian, or the nearest lineal relative who has personal knowledge of the facts of birth. When there are no lineal relatives having personal knowledge of the facts and the registrant is ~~21~~ 18 years of age or older, he may write "no known living kin" on the affidavit and sign it himself.

4. Documentation required to support the affidavit shall consist of the physician's record of the birth, or if the child was born in a hospital or ambulance service, a statement from the hospital administrator certifying the hospital record of birth. Either of these completed documents shall constitute sufficient evidence to establish a delayed birth registration when the record contains information on all the facts which must be established. When neither of these documents is available, other documentation may suffice.

a. In addition to the affidavit, the date and the place of birth shall be authenticated by a minimum of two supporting documents.

b. In addition to the affidavit, the facts of parentage shall be supported by documentation.

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5. The documents used to substantiate the facts for the establishment of a delayed registration shall be the earliest documents available. When the earliest document supporting the establishment of birthdate or birthplace was established more than 7 years after birth, additional documentation shall be required. Additionally, the documents shall:

a. Be without any sign of erasure, alteration, or any change of the pertinent information.

b. Indicate the date and by whom the original document was made.

c. Be at least 5 years old, except that when filing a birth certificate for a young child, this requirement may be waived.

6. Abstract of documentation required. When convinced that the requirements for establishing a delayed birth registration have been met, the registrar shall abstract on the delayed registration form the facts of birth recorded in the document. He shall also list the name and type of document, including by whom issued and signed, and the date of issue along with the date the original document was established. In addition, he shall certify that this is the only birth registration on file for this person and that the documentary evidence submitted to determine the facts of birth has been reviewed, and that it confirms the facts as cited.

7. Filing delayed registrations. After the registrar has made the abstract and certification of documentation, he shall sign, date, and file the duplicate copy and immediately transmit the original copy to the State Registrar. (Delayed registrations of birth occurring prior to 1900 shall be filed only with the local registrar.) The State Registrar shall review the delayed registration certificate and when acceptable, he shall sign, date, and file the certificate. He shall also notify the local registrar of this action. When the State Registrar finds a delayed registration certificate to be unacceptable for filing, he shall notify the local registrar within 10 days, giving a clear explanation for the rejection. Upon receipt of a notice of rejection, the local registrar shall not issue any certification or certified copy of the certificate until the cause for rejection has been removed.

E. Cancellation of records. When the State Registrar contends that a delayed registration was established through fraud, he shall notify in writing the person named in the certificate of his intention to cancel the certificate. The notice may be sent by registered mail to the person whom the record purports to certify, or in the case of a minor or incompetent, to his parent or guardian at his last known address. The notice shall permit the person to appear and dispute the cancellation. Unless this person responds within 30 days after the date of mailing, the State Registrar shall cancel the certificate.

F. Delayed registrations of death. The registration of a death after the time prescribed for filing but within ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "late death registration." Its filing shall be subject to the requirements of ~~MHD 11 (g)~~ 7 MCAR § 1.011 G., but it shall not be labeled a "delayed registration." The registration of a death subsequent to ~~6 months~~ 1 year after the time prescribed for filing shall be considered a "delayed death registration."

G. Procedures and requirements for delayed death registration. Delayed registrations shall be completed and filed in the same manner as death certificates filed on time. To be acceptable for filing, the death certificate must be signed by the physician, the coroner, or the medical examiner and, if possible, by the funeral director, mortician, or by the other person responsible for the disposition of the body. When statements cannot be obtained from both the person responsible for the medical certification and the person in charge of the disposition, the case shall be referred directly to the State Registrar for his determination of other confirmatory evidence which may suffice. When neither the physician's, coroner's, or medical examiner's statement nor the statement of the person in charge of the disposition is available only a court finding as to the fact of death will suffice to establish a delayed death registration. The State Registrar or the local registrar may require additional substantiation of the facts of death or an explanation of the delay in filing when there appears to be adequate justification.

H. Manner prescribed by the ~~Board~~ Commissioner for preservation of delayed registration evidence. The ~~Board~~ Commissioner prescribes that written evidence used for establishing delayed registrations of birth or of death, or used in the alteration of certificates of birth or of death shall be preserved in one of the following forms: abstracts, certified copies, microfilm images, or photographic copies. These forms shall be completed by the officers empowered to issue delayed certificates of birth or of death or to make material alterations on certificates of birth or of death. When acceptable to all parties concerned, the original evidence may be preserved in lieu of a certified copy or an abstract.

7 MCAR § 1.012 Certification.

A. Certification of altered records.

1. Certified copies and certifications of altered records which are certified to be "full and complete" or "true and correct" copies shall show the alteration and the statement, "any alterations shown were made under the authority of ~~Minnesota Statute 144.172~~ the Vital Statistics Act and the ~~regulations~~ rules of the ~~State Board of Health~~ Commissioner," shall be printed or typed on the certified copy of the certification.

2. Certifications of altered records which are not cer-

tified to be "full and complete" or "true and correct" copies need not show the alteration.

3. Certified copies and certifications of delayed registration records which are certified to be "full and complete" or "true and correct" copies shall include the basis for the establishment of the delayed registration including an abstract of the documentation supporting the establishment of the delayed registration. All certifications of delayed registration records shall include the statement, "This delayed registration was established under the authority of the ~~Uniform~~ Vital Statistics Act and the rules of the Commissioner."

B. Abstract of birth in stepfather's name. The State Registrar may issue an abstract of birth under the surname of the stepfather for a child ~~of illegitimate birth~~ born out-of-wedlock, if the stepfather has given his consent in affidavit form. His wife shall join in the affidavit. Information of parentage and of legitimacy status shall not appear on the birth abstract.

C. Abstract of birth in foster parents' name. Upon recommendation of the Commissioner of Public Welfare, the State Registrar may issue an abstract of birth under the surname of the foster parents for a ~~child of illegitimate birth~~ State ward when they have given their consent in affidavit form. Information of parentage and of legitimacy status shall not appear on the birth abstract.

D. Restricted certification. Sections of the birth and fetal death record entitled "for medical and health use only" or "supplementary information" shall be excluded from certified copies, unless specifically requested by the applicant.

E. Prima facie evidence.

1. Birth and death certificates filed within 1 year of the event shall be prima facie evidence of the facts stated therein. Data pertaining to the father of a child are prima facie evidence only if the alleged father is the husband of the mother; if not, the data pertaining to the father of a child are not evidence in any proceeding adverse to the interests of the alleged father, or of his heirs, next of kin, devisees, legatees or other successors in interest, if the paternity is controverted.

2. A copy of a birth or death certificate when certified by the State Registrar or a local registrar shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein, provided that the evidentiary value of a certificate filed more than 1 year after the event shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

7 MCAR § 1.013 Access to records.

A. Information for commercial use. The State Registrar, ~~the~~ and local registrars, ~~and the clerks of the District Court~~ shall not furnish gratis or for purchase information identifying persons recorded in a birth or death certificate to be used for commercial purposes (publication in official newspapers shall not be considered as a commercial purpose). Neither shall hospital administrators, nor funeral directors or morticians use or furnish vital statistics information for such purpose.

B. Unauthorized certification prohibited. No person shall prepare or issue any certificate which purports to be an original, certified copy, certification or certificate of birth, death, or fetal death, except as authorized by the ~~Minnesota Statutes, 144.151-144.204 (Uniform~~ Vital Statistics Act).

C. Upon receipt of a written request, the State Registrar or local registrar shall issue a copy of or verify information from a vital record. In determining whether or not to allow an applicant to do his own searching of the records, the registrar shall consider such things as the physical condition of the records to be searched, whether or not a file contains private or confidential data, the registrar's workload at the time the request is received, and the urgency of the request.

7 MCAR § 1.014 Death registration.

A. Death certificate. A death certificate must be filed for every known death, by the mortician, funeral director or other person in charge of the disposition of the body with the local registrar of the registration district within which the death occurred or with a subregistrar designated by the State Registrar to receive death certificates for filing within that territory. If the place of death is not known the death certificate shall be filed with the local registrar of the registration district within which the body was found, or with a subregistrar, within 24 hours thereafter. The certificate shall be filed prior to interment or other disposition of the body or in any case within 5 days after the occurrence.

B. Fetal death ~~certificate~~ report. A fetal death ~~certificate~~ report must be filed for the death of each fetus for whom 20 or more weeks of gestation have elapsed. Each fetal death which occurs within the state shall be reported

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within 5 days to the State Registrar on a blank provided by or approved by the State Registrar for this purpose. The mortician, funeral director, hospital administrator, or other person in charge of the disposition of the remains, shall be responsible for making this report. He shall secure personal data for the report from the best source available. This source may be the next of kin, hospital records, or the records of a coroner or medical examiner. He shall obtain the medical portion of the report from the physician or other person in attendance at the delivery of the fetus, or if not attended, from one of the parents or from the coroner or medical examiner.

C. Completion of death certificate. The mortician, funeral director, or other person in charge of the disposition of the body shall secure personal data from the best source available. This source may be the next of kin, hospital or institutional records, or the records of a coroner or medical examiner. He shall secure the medical certification of cause of death from the physician last in attendance upon the deceased, or from the coroner or medical examiner having jurisdiction. He shall notify the local registrar when it is impossible to obtain the medical certification from the physician last in attendance or from the coroner or medical examiner. The local registrar shall immediately refer the case to the local health officer for investigation and certification of cause of death upon the basis of information from the most reliable source available.

D. Referrals to coroner or medical examiner. The mortician, funeral director, or other person in charge of the disposition of the body shall notify the coroner or medical examiner before moving a body from the site of death in any case where he is unable to obtain firm assurance from the physician that the medical certification will be signed. In addition, the case shall be referred to the coroner or medical examiner whenever circumstances suggest that the death was caused by other than natural causes, or where the body is to be disposed of in some manner which prevents later examination, or when the decedent was an inmate of a public institution who was not hospitalized for organic disease.

E. Physician in attendance. The term "physician in attendance upon the deceased" shall mean the physician who treated the deceased for the illness or condition which led to death. When the "physician in attendance" is unavailable to certify the cause of death, an associate or another physician shall be authorized to certify the cause of death when he has access to the medical history of the case, provided that he views the deceased at or after death.

F. Medical certification. The physician, coroner, or medical examiner shall certify the cause of death and return the certificate to the mortician or funeral director promptly, so that a reasonable amount of time is available for the mortician or funeral director to obtain the necessary Permit for Disposition prior to disposition. When the physician, the coroner, or the medical examiner cannot complete his study and certify the cause of death before burial, cremation, or removal, but the body is no longer required for his diagnosis, the diagnosis may be deferred. (When the diagnosis is to be deferred, the certifier must date and sign the medical certification portion and check the deferred diagnosis space on the death or the fetal death certificate). The deferred diagnosis procedure shall apply only when there is a reasonable expectation that an autopsy, other diagnostic method, or investigation may significantly change the diagnosis. This procedure shall not apply when the cause of death is in doubt, but where no further diagnostic procedures can be carried out. In this case, the "probable" cause shall be entered on the basis of the facts available and the certification made in accordance with the best judgment of the certifier.

G. Deaths from undetermined circumstances. Deaths shall be classified as due to undetermined circumstances only when it is impossible to establish the circumstances of death.

H. Monthly report of deaths.

1. Every person providing a casket for any final disposition of a dead human body shall maintain a record showing the name of the purchaser, the purchaser's post office address, the name of the deceased, the date of death, and the place at which the death occurred. This record shall be open to inspection by the State Registrar at all times. On or before the 10th day of each month the establishment providing caskets shall report, on a blank provided for the purpose, to the State Registrar those facts that he shall require for the preceding month. No person selling caskets solely to distributors, morticians, or funeral directors shall be required to keep this record.

2. Every person providing a casket at retail, and not having charge of the disposition of the body, shall enclose within the casket a notice furnished by the State Registrar calling attention to the requirements of the law, a blank certificate of death, and the statutes and ~~regulations~~ rules of the ~~State Board of Health~~ Commissioner for the disposition of a dead body.

I. Dead body not found. When circumstances suggest that a death has occurred although a dead body cannot be produced to confirm the fact of death, a death certificate shall not be filed until a court having jurisdiction has adjudged the fact of death. A certified copy of the court finding must be attached to the death certificate when it is presented for filing.

7 MCAR § 1.015 Burial — transit — removal permits.

A. Permit for disposition — when required.

1. A Permit for disposition shall be required for burial, cremation, transportation by common carrier, removal out-of-state, removal from a registration district, for disinterment and reinterment, or for the retention of a dead human body more than 5 days. It shall be issued by the local registrar or a subregistrar, of the place of death, or if necessary to avoid delay, by the State Registrar.

2. The permit shall contain the information required on the form supplied by the ~~State Board of Health~~ Commissioner and shall be signed by the following persons: the local registrar or the subregistrar, the mortician or funeral director, and the person in charge of the conveyance. When a communicable disease is the cause of death, the permit shall be signed by the mortician who prepared the body. When a firm name is subscribed on the Permit for Disposition, it shall be accompanied by the personal signature of a licensed member of that firm.

B. Notice of removal permit. Whenever it is impossible to secure a proper certificate or permit for disposition without great delay, the dead human body may be moved by private conveyance from its present registration district to another registration district within the state for burial preparation using the notice of removal provided by the State Registrar. Before removing the body the attending mortician or, when death is not from a communicable disease, the funeral director shall obtain assurance that the cause of death will be certified prior to final disposition of the body. Within 18 hours following the removal, he shall mail or hand the notice of removal to the local registrar. The notice shall explain the failure to obtain the usual permit for disposition and include the date, and time of removal, and place to which the body shall be moved.

C. Ashes of the dead. Cremation of a dead human body shall be considered as a final disposition of that body. No additional permit is required for transportation or disposition of the ashes of cremation.

D. Issuance of a permit. The permit for disposition may be issued by a local registrar, a subregistrar, or if necessary to avoid delay, by the State Registrar; however,

1. No permit shall be issued until the death certificate or the fetal death ~~certificate~~ report has been filed. Each certificate or report shall be as complete as possible under the circumstances; however, in every case certain minimal information shall be required.

a. The name and the age of the deceased or the coroner's identification.

b. The date and place of death or the place where the body was found.

c. The medical certification. See 7 MCAR § 1.014 F.

d. Information on disposition.

2. No permit shall be issued without receiving an assurance of compliance with the regulations governing transportation of the dead.

3. The subregistrar shall write upon each death certificate filed with him the date of the filing, his name, and forward it to the local registrar of the proper district within 3 days after receipt.

E. Use and filing permit. Until the time of the final disposition, the permit shall be in the possession of the person in charge of the body, or attached to its shipping container. In localities requiring local issuance of disposition permits, the original permit shall be presented to the Health Officer with the request for the reissuance of a permit. At this time, the permit shall be filed with the person in charge of the cemetery or crematory. Where there is no person or corporation responsible for the maintenance of a cemetery, the mortician or funeral director in charge of interment in this cemetery shall write above his signature upon the permit(s) issued "no association, person, or corporation responsible for this cemetery" with the name of the cemetery and the city, village, or township and county in which it is located. This permit shall then be mailed to the State Registrar.

F. Cemetery official to be appointed. Individuals, associations, or corporations owning or operating cemeteries shall appoint some person to be responsible both for receiving and filing, and preserving permits for disposition ~~and for the enforcement of the statutes requiring permits for interments or cremations~~. The sexton or other person acting as such shall not permit the interment or cremation of a dead human body until a burial permit issued under the provisions of the Vital Statistics Act and these rules has been filed with him. He shall keep a record of all interments and cremations stating the name of the deceased, place of death, date of burial or cremation, and name and address of the attending mortician or funeral director.

G. Death outside state, burial permit. When a death or fetal death occurs outside this state and the body is accompanied by a permit for burial, removal, or other disposition issued in accordance with the laws and rules in force where the death or fetal death occurred, the permit shall authorize

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the transportation of the body into or through this state but before the burial, cremation or other disposition of the body within this state a local burial permit shall be issued by the local registrar of the district where disposal is to be made, or by a subregistrar or, if necessary to avoid delay, by the State Registrar. The permit accompanying the body into this state shall, together with the local burial permit, be filed with the sexton who shall keep a record thereof as provided in 7 MCAR § 1.015 F.

Department of Natural Resources

Proposed Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cloquet River from Its Source at Cloquet Lake to Its Mouth at the St. Louis River, and the Proposed Adoption of a Management Plan for the Cloquet River

Order for Hearing

In accordance with the Minnesota Wild and Scenic Rivers Act (Minnesota Statutes, Sections 104.31 through 104.40) the Commissioner of Natural Resources has prepared a management plan for the above-captioned segment of the river as a component of the state's Wild and Scenic Rivers System. The Commissioner must hold public hearings in each affected county, but not before copies of the management plan have been available to the public for at least 60 days.

Now, therefore, it is ordered this 4th day of December, 1978 that public hearings be held on the above-captioned matter, in the manner provided by Minnesota Statutes, Sections 15.0411 through 15.051 and Section 15.052, at the following times and places.

7 p.m. February 19, 1979 in the Two Harbors High School Auditorium, Two Harbors, Minnesota.

7 p.m. February 20, 1979 at the University of Minnesota-Duluth, Chemistry 200 Auditorium, Duluth, Minnesota. (Use campus entrance off College Street; use parking lot A or B — the lots are off Lawn Drive, enroute to Administration Building.)

It is further ordered that Notice of Hearing be provided by mail or publication, as possible and appropriate, to the Secretary of State's mailing list, Office of State Register, members of the Legislature, affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, and the general public.

It is further ordered that the Notice of Hearing name places where copies of the management plan will be available for inspection.

Joseph N. Alexander
Acting Commissioner

Notice of Hearing

Notice is hereby given that public hearings will be held on the above-captioned matter, in the manner provided by Minn. Stat. §§ 15.0411 through 15.051, and § 15.052 at:

7 p.m. February 19, 1979 in the Two Harbors High School Auditorium, Two Harbors, Minnesota.

7 p.m. February 20, 1979 at the University of Minnesota-Duluth, Chemistry 200 Auditorium, Duluth, Minnesota. (Use campus entrance off College Street; use parking lot A or B — the lots are off Lawn Drive, enroute to Administration Building.)

The hearing shall continue until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning the above-mentioned matter by submitting oral or written data, statements, or arguments.

The hearing examiner will be Howard Kaibel from the State Department of Administration, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8107.

Twenty-five days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available

ADDITIONAL PROPOSED AMMENDMENT TO THE RULES.

7 MCAR § 1.014 F. Medical certification. The physician, coroner, or medical examiner shall certify the cause of death and return the certificate or report to the mortician or funeral director promptly, so that a reasonable amount of time is available for the mortician or funeral director to obtain the necessary Permit for Disposition prior to disposition. When the physician, the coroner, or the medical examiner cannot complete his study and certify the cause of death before burial, cremation or removal, but the body is no longer required for his diagnosis, the diagnosis may be deferred. (When the diagnosis is to be deferred, the certifier must date and sign the medical certification portion and check the deferred diagnosis space on the death certificate or the fetal death ~~certificate~~ report. The deferred diagnosis procedure shall apply only when there is a reasonable expectation that an autopsy, other diagnostic method, or investigation may significantly change the diagnosis. This procedure shall not apply when the cause of death is in doubt, but where no further diagnostic procedure can be carried out. In this case, the "probable" cause shall be entered on the basis of the facts available and the certification made in accordance with the best judgment of the certifier.

Our File: 518

WILLIAM G. MILLER
Special Assistant
Attorney General

May 3, 1979

Lee W. Sheehy

In the Matter of the Proposed Amendments to Rules of the Minnesota Department of Health Relating to Vital Statistics.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of the Proposed Amendments to Rules Relating to Vital Statistics

FINDINGS AND CONCLUSIONS

The above-entitled matter came on for hearing, conducted by Hearing Examiner Peter C. Erickson for the Minnesota Commissioner of Health, on the 22nd day of January, 1979, at 9:30 a.m., in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, after proper notice required by Minn. Stat. § 15.0412 (1978) was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, files and proceedings herein, the Commissioner hereby adopts as his own the Findings and Conclusions and suggestions contained in the Report submitted by the Hearing Examiner herein, dated February 28, 1979, with the following exceptions:

Rule 7 MCAR § 1.007 N.5 (Hearing Examiner Report, page 3, 9.d.)

The amendment suggested by the Hearing Examiner is not necessary as the intent that the $5.00 per hour fee will apply whenever staff time is expended in assisting an individual to do their own searching of the records is clear under the language of the rule as proposed.

Rule 7 MCAR § 1.008 A.3.b. (Hearing Examiner Report, page 4, 10.b.)

Rule 7 MCAR § 1.007 M. gives the Commissioner authority to determine the item content of the birth certificate. Therefore, the suggested amendment is not necessary. The Commissioner can by administrative action take the action

proposed by the Hearing Examiner without additional language in the rule. The next revision of the birth certificate will be in January, 1980, and in all probability, the item "legal name of Mother" will appear on this revision.

Rule 7 MCAR § 1.013 C. (Hearing Examiner Report, page 5, 15.e.)

Several individuals testified requesting an amendment to this proposed rule which would allow "comprehensive accessibility" to "historians, genealogists and other scholars."

Minn. Stat. § 15.17, subd. 4, states that:

> . . . full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all public records except as otherwise expressly provided by law.

(Emphasis added.) The later and more specific provision of the Vital Statistics Act, Minn. Stat. § 144.225, subd. 1, states that:

> . . . information contained in vital records shall be public information. Physical access to vital records shall be subject to the supervision and regulation of state and local registrars and their employees pursuant to rules promulgated by the commissioner in order to protect vital records from loss, mutilation or destruction and to prevent the improper disclosure of records which are confidential or private data on individuals, as defined in section 15.162, subdivision 2a and 5a.

(Emphasis added). Further, there is no definition of "historian", "genealogist" or "scholar" in either statute or rule. Adding the requested amendment would negate the intent of the rule. Therefore, the Commissioner has chosen not to adopt the suggested language of the Hearing Examiner.

Pursuant to statutory authority and based upon the above made Findings and Conclusions, I have made the attached Order of Adoption.

Dated: April 4, 1979

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

George R. Petterson MD

GEORGE R. PETTERSEN, M.D.
Commissioner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General

DATE: May 1, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of the Proposed Amendments to Rules of the Minnesota Department of Health Relating to Vital Statistics

Enclosed pursuant to our phone conversation of this morning are three copies of the Report of Hearing Examiner in the above matter.

WGM:rlb

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Lee Sheehy
Special Assistant
Attorney General

DATE: April 18, 1979

FROM : William G. Miller
Special Assistant
Attorney General

PHONE: 6-5500

SUBJECT: In the Matter of Proposed Amendments to Rules Relating to Vital Statistics

I have enclosed for your review, pursuant to Minn. Stat. § 15.0412 subd. 4 (1978), the record, the Commissioner's Findings, the Order adopting and other relevant documents related to the above-referenced rules. Please contact me if you have any questions or comments on this rules package.

WGM:rlb

Enclosure

RECEIVED
APR 18
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

RECEIVED
APR 18
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

RECEIVED
DEC 27 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments
to Rules Relating to Vital Statistics

ORDER FOR HEARING

To effectively implement Minn. Stat. §§ 144.151-.227 (1976) as amended by Minn. Laws 1978, ch. 699, the Minnesota Commissioner of Health deems it necessary to consider adoption of the proposed amendments captioned above pursuant to the authority vested in him by the above-referenced statutes and Minn. Stat. §§ 144.11-144.12 (Supp. 1977).

NOW, THEREFORE, IT IS ORDERED this 1st day of December, 1978, that a public hearing on the proposed rules captioned above be held in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on January 22, 1979, commencing at 9:30 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

Comm #2

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

RECEIVED
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OFFICE OF HEARING
EXAMINERS

In the Matter of Proposed Amendments
to Rules Relating to Vital Statistics

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.), in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on January 22, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed amendments to Minn. Rules 7 MCAR §§ 1.007-1.015 (Minn. Rule MHD 7-15) captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8118, either before the hearing or within five (5) days after the close of the hearing. The Hearing Examiner may keep the record open for a longer period not to exceed 20 calendar days. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

Comm #5

If adopted, the proposed amendments would increase the fee for a certified copy of a birth, death, or marriage certificate; provide a fee schedule for the verification of information from, or a noncertified copy of, a birth, death, or marriage record; and allow the registrar to restrict physical access to vital records in certain cases. Specifically, the proposed amendments would:

1. Increase the fee for a certified copy of a birth, death, or marriage certificate from $2.00 to $3.00.

2. Provide a fee of $.50 for the verification of information from or a noncertified copy of a birth, death, or marriage record when specific information is furnished to locate the record and a $5.00 per hour fee when specific information is not furnished.

3. Allow the registrar to permit or deny an applicant's request to do his own searching of the records after considering such things as the physical condition of the records, whether or not a file contains private or confidential data, the registrar's workload at the time the request is received, and the urgency of the request.

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to Frederick L. King, State Registrar of Vital Statistics, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

NOTICE: The proposed amendments are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed amendments to participate in the rule hearing process.

The statutory authority of the Commissioner to promulgate and adopt these rules is contained in Minn. Stat. §§ 144.11-.12 (1976) and Minn. Stat. §§ 144.151-.227 (1976) as amended by Minn. Laws 1978, ch. 699.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. A lobbyist is defined in Minn. Laws 1978, ch. 463, § 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Dated: December _____, 1978

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner of Health

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DEC 2 / 1978
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of Proposed Amendments
to Rules Relating to Vital Statistics

CERTIFICATE

I hereby certify that the 585 general labels and 9 sheets page list for the Minnesota Commissioner of Health, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 10:45 o'clock A.m., this 5th day of Dec, 1978, have requested, pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules and amendments thereto on the subject captioned above.

SECRETARY OF STATE

JOAN ANDERSON GROWE

By Joan Anderson Growe
Kathy Kjelson

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RECEIVED
DEC 2 1 1978
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules Relating to Vital Statistics

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Frederick L. King, being first duly sworn upon oath, deposes and says:

1. The he is an employee of the Minnesota Commissioner of Health.

2. That on the 4th day of December, 1978, he called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412, subd. 4 (1977 Supp.).

3. That on the 5th day of December, 1978, in response to the above request, the Secretary of State provided him with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Frederick L. King

Subscribed and sworn to before me

this 13th day of December, 1978.

Christine Grinsteinner

CHRISTINE GRINSTEINNER
Notary Public, Dakota Co., Minn.
My Commission Expires
Dec. 5, 1981

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STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

RECEIVED
DEC 27 1978
OFFICE OF HEARING
EXAMINERS

In the Matter of Proposed Amendments
to Rules Relating to Vital Statistics

AFFIDAVIT
OF MAILING

William Dickey, being first duly sworn, deposes and says:

That on the 13th day of December, 1978, at the City of Minneapolis, County of Hennepin, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof, as well as to all members of the Minnesota Legislature as of the date of mailing.

William L. Dickey

Subscribed and sworn to before
me this 13th day of December, 1978.

Judith R. King

FREDERICK L. KING
WASHINGTON COUNTY
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES FEB. 22, 1984

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OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments
to Rules Relating to Vital Statistics

STATEMENT OF NEED
AND REASONABLENESS

The above-captioned amendments are proposed to the rules of the Commissioner of Health (hereinafter "Commissioner") regarding Vital Statistics, 7 MCAR §§ 1.007-1.015 (Minn. Rules MHD 7-15). The statutory authority of the Commissioner for promulgation of these amendments is contained in Minn. Stat. §§ 144.11-.12 (1976) and Minn. Stat. §§ 144.151-.227 (1976) as amended by Minn. Laws 1978, ch. 699.

The need to amend these rules arises from, among other causes, the 1978 legislative amendments to the statutes relating to vital records cited to above. In addition, pursuant to the definition of "rule" contained in Minn. Stat. § 15.0411, subd. 3 (1976) and Minn. Stat. § 15.0412 (Supp. 1977), it is arguable that several current long-standing policies of the Commissioner regarding this subject matter should be formally promulgated in rule form. To remove any such questions, the Commissioner has decided to formalize the parts of the procedures in this area which are subject to such ambiguities.

The Commissioner, pursuant to Minn. Stat. § 15.041, subd. 4 (1976) and Minn. Rule HE 105 hereby affirmatively presents the need, reasonableness and justification for the adoption of these amendments.

General Comments: Agencies such as Social Security and the Passport Office generally accept birth and death certificates filed within one year of the event as proof of the facts they contain. Also, a majority of the states and the Model Vital Statistics Act define a delayed registration as a certificate filed more than one year after the event. Accordingly, the definition of and references to "delayed registration" throughout these rules have been changed from a record filed later than six months to one filed more than one year after the event.

Comm #9

Since the Board of Health was abolished by the 1976 Legislature,[1] references in the rules to the "Board" have been changed to "Commissioner." Also, "regulation" has been changed wherever it occurs to "rule."[2]

As explained in the comments relating to 7 MCAR § 1.007G., information concerning fetal deaths is now collected on a statistical report rather than a legal certificate. Therefore, "fetal death report" is proposed to replace "fetal death certificate" wherever used in these rules.

Historically, the local registrar of vital statistics has been the clerk of district court for each county and the health officer in those cities which maintain registration of vital events. For purposes of clarity and brevity, the term "local registrar" is substituted for "clerk of district court" and "health officer."

The term "out-of-wedlock" is proposed to replace the word "illegitimate" in these rules. During the past several years the Commissioner received criticism from a number of individuals for use of the archaic word "illegitimate." It is felt that "out-of-wedlock" does not have the stigma or value judgment associated with "illegitimate."

7 MCAR § 1.007A.4. and F. This language makes it clear that a registrar may refuse to accept a certificate which does not meet the requirements of statute or rule for filing.

7 MCAR § 1.007B. The Vital Statistics Act (Minn. Stat. §§ 144.151-144.227 (1976) as amended by Minn. Laws 1978, ch. 699) no longer requires the local registrar to file an exact duplicate of each certificate in addition to recording the event in a ledger. This proposed change in rule eliminates unnecessary duplicate record-keeping. The reasons for the previous statutory language are not known and it is not apparent what purpose, if any, was served by having two sets of records.

7 MCAR § 1.007G. The Vital Statistics Act no longer defines a fetal death certificate as a "vital record" but continues to include these events in the definition of "vital statistics" data. Unlike births and deaths, fetal death certificates are not needed as legal proof of the event. The data are collected solely for statistical, rather than legal, reasons. Therefore, it is proposed that

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1/ See: Minn. Laws 1976, ch. 305.

2/ See: The definition of "rule" in Minn. Stat. § 15.0411 (1976).

these data be collected using a statistical report rather than by a legal certificate kept on permanent file.

7 MCAR § 1.007J. Since the 1940's, when the resident of one county gave birth or died in another county, the clerk of court in the county of occurrence have sent a copy of the birth or death to the registrar in the county of residence so that copies of certificates could be obtained in the county of residence. It is believed that the creation and continuation of such a reciprocal system is within the scope of the Commissioner's rule-making authority, and that the more flexible rule-making procedure is better suited to the administration of such a system. Therefore the Commissioner recommended to the legislature the deletion of this provision from the statute and the legislature concurred. All local registrars were contacted and asked their opinion of continuing the transcript exchange. A majority of those responding felt it was a service to the public and wished to continue the practice. The language proposed by the Commissioner continues the system essentially as it has operated in the past.

7 MCAR § 1.007K., L., and M. The subject matter of these rules was eliminated from statute as it is believed that the subject matter can best be addressed by the more flexible rule-making procedure and because these rules deal essentially with internal relationships between the state and local registrars. The proposed amendments provide for the uniform recording of births and deaths at the local and state level and provide for the timely transmission of records to the state.

7 MCAR § 1.007N.1. This language is consistent with the 1978 revision of the Vital Statistics Act. The certified copy fee increase from $2.00 to $3.00 is being proposed since the costs involved in issuing copies has increased by approximately 50 percent since fees were last increased in 1970.

7 MCAR § 1.007N.2. Since the revision and recodification of the Vital Statistics Act, these cites are no longer applicable.

7 MCAR § 1.007N.5. The 1978 revision of the Vital Statistics Act contains a provision that a fee may be charged for verification of information from or non-certified copies of vital records. The fee schedule proposed by this rule approximates the actual costs involved in such a verification.

7 MCAR § 1.008A.2. At the present time certified nurse midwives and resident physicians are delivering children in hospitals under the supervision of a licensed physician. This provision would allow the attending midwife or resident to sign the birth certificate instead of requiring that it be signed by a physician who was not in actual attendance at the birth. We have heard from a number of mothers who were extremely upset that a physician they never heard of had signed their child's birth certificate. In addition, the person who actually attended the birth is better able to review the certificate for accuracy. This practice should also result in more timely filing of the certificates.

In 1939 the Vital Statistics Act was amended to provide that birth certificates for children born out-of-wedlock would be filed directly with the State Registrar. This requirement was eliminated from statute in 1978. During the past several years we have received comments from a number of parents that not filing these records locally discriminates against the child and causes them inconvenience in obtaining a copy. When the law was changed in 1939, a majority of children born out-of-wedlock were placed for adoption and the birth was registered with the town or village clerk and also at the county and state levels. Thus the intended confidentiality of the records could not be assured. Today 95 percent of children born out-of-wedlock are raised by the mother and there is no longer the stigma once associated with these births.

7 MCAR § 1.008A.4. The subject matter of this rule was eliminated from statute as it is believed that it can best be addressed by the more flexible rule-making procedure. In the absence of this rule a birth certificate could not legally be filed in the case of a child born at home without medical attendance when one of the parents could not prepare the birth certificate.

7 MCAR § 1.008B. See comments relating to 7 MCAR § 1.007B. and 7 MCAR § 1.008A.2.

7 MCAR § 1.008G.2. The Vital Statistics Act now provides that a child born out-of-wedlock may assume the father's surname upon the consent of both parents. Therefore the present rule is contrary to statute. Also, since there is no provision in statute or rule stating what surname the child born in wedlock must carry, it is felt that the current wording of this rule is discriminatory.

7 MCAR § 1.009C.1. Prior to its revision, the Vital Statistics Act required the clerk of court to send a form, containing information from the birth certificate, to the parents of a newborn child asking them to verify the accuracy of the information. Given the expense involved and the few errors being reported, the benefits of this practice are questionable. This change in rule would make the mailing of verification forms permissive.

7 MCAR §1.009C.5. The responsibility for filing a birth certificate for an unattended birth when the parents are not able to do so is already provided for in 7 MCAR § 1.008A.4. Therefore, the deletion of this redundant language is proposed.

7 MCAR § 1.009D.1. In 1974 the legislature lowered the age at which a person may obtain a copy of his birth certificate if he was born out-of-wedlock from 21 to 18. Also, at that time the age at which a person may obtain a marriage license without parental consent was lowered from 21 to 18. For consistency, it is proposed that the age at which an individual is able to request that his birth record be altered without the consent of his guardian be changed from 21 to 18.

7 MCAR § 1.009D.3. The Commissioner has noted several cases where a person claiming to be the surviving spouse has requested that the marital status on her husband's death certificate be changed from divorced to married. She could then use the death certificate to obtain benefits from Social Security or the Veterans Administration. It is felt that in order to protect the integrity of information contained on death certificates, the person who originally supplied the information should consent to any change.

7 MCAR § 1.009F.4. This language is identical to that contained in current 7 MCAR § 1.009F.6. Since § 1.009F.6. states what alterations may be made solely upon the authority of an affidavit, this provision belongs in 1.009F.4.

7 MCAR § 1.009F.10. See comments for 7 MCAR § 1.008G.2.

7 MCAR § 1.009K.5. See comments for 7 MCAR § 1.009C.1.

7 MCAR § 1.012C. Current rule provides that a child who is a ward of the state and has been placed in a foster home may have a birth certification issued in the foster parents' surname upon the consent of the Commissioner of Public Welfare if the child was born out-of-wedlock. The birth certificate may be used as proof of name for school enrollment and other legal uses. The Commissioner's consent is usually given in cases where, for one reason or another, it is likely that

the child will not be adopted and it appears that the foster placement will be permanent. There are many foster home placements of children who were not born out-of-wedlock. It is believed that such children should also have the advantage of being able to obtain a birth certification in the foster parents' surname.

7 MCAR § 1.012E. These provisions were deleted from statute as it is believed that the subject matter can best be addressed by the more flexible rule-making procedure. For many years, agencies such as Social Security Administration, the Passport Office, welfare departments, and the courts have accepted certified copies of birth and death certificates as prima facie evidence of the information contained in the records.

7 MCAR § 1.013C. The 1978 revision of the Vital Statistics Act gives registrars the authority to restrict physical access to vital records in order to protect them from "loss, mutilation, or destruction and to prevent improper disclosure of records which are confidential or private." Meetings have been held with genealogists and registrars throughout the state in an attempt to determine how the records can best be protected while at the same time provide orderly access to the information they contain. There have been a number of occasions when a person wanted access to death records so that they could obtain enough information to request a copy of a deceased infant's birth certificate in order to establish a false identity. Birth certificates of children whose parents were born in Mexico are being used to bring aliens into the country. Records have been removed from books or altered. On the other hand, there are individuals who are engaged in extensive genealogical or medical research who are known to the registrar and it is desirable for them to be permitted physical access to the records.

Unlike Minnesota, vital records are not public in a majority of the states. To the best of our knowledge, no state vital statistics office permits individuals to do their own searching. As an example, see Attachment I, a rule of the Georgia Department of Human Resources.

This rule would give the registrar authority to decide in which cases an individual should be permitted to do his own searching. (See Attachment II, a letter from members of a genealogy society. The Mrs. Merle Schultz referenced therein is the registrar of Houston County.)

7 MCAR § 1.014A. and B. These provisions were deleted from statute as it is believed the subject matter can best be addressed by the more flexible rule-making procedure. They fix responsibility for the filing of death certificates and the reporting of fetal deaths. The filing of death certificates has been required by statute since 1872.

7 MCAR § 1.015F. and G. These provisions were deleted from statute as it is believed that the subject matter can best be addressed by the more flexible rule-making procedure. The provisions have been in effect for many years and provide for the timely and complete registration of deaths by requiring that a death certificate be filed prior to the issuance of a permit for burial or transportation of the body.

Dated: December 27, 1978.

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

WARREN R. LAWSON, M.D.
Commissioner

RULES
OF
DEPARTMENT OF HUMAN RESOURCES
ADMINISTRATION

CHAPTER 290-1-2
FORBIDDING SEARCH OF RECORDS

290-1-2-.01 Privacy and Seclusion of Records.

(1) WHEREAS, demands have been made upon the staff and employees of the Board of Human Resources by various persons to be allowed to inspect the records of the Board, and

(2) WHEREAS, the indiscriminate allowing of such search is not conducive to keeping such files in an orderly and clean manner, and

(3) WHEREAS, many of the files of the Board, notably birth and death certificates, must be kept as permanent records and it is incumbent upon such employees who have them in charge to maintain them in a clean and orderly condition, and

(4) WHEREAS, other files of the Board, notably laboratory findings and diagnoses, by their very nature are confidential and personal to the person on whom reports are made and their physicians, therefore,

(a) BE IT RESOLVED, that the files of the Board of Human Resources of Georgia are not open to public inspection, and the Commissioner of the Department of Human Resources and employees are instructed not to permit public inspection of any record which would violate the confidential relation between physicians and patients;

(b) BE IT FURTHER RESOLVED, that the public search of records of birth and death is prohibited and only authorized employees of the Department of Human Resources will search the files of the State Bureau of Vital Statistics for any applicant for certified copies of birth and death certificates only upon payment of the statutory fee by the applicant for such certificates, as provided in Section 88-1725 of the Georgia Health Code.

(c) BE IT FURTHER RESOLVED, that the foregoing paragraph shall apply to local registrars of vital statistics, who shall not permit any search of their records of birth and death certificates by any person except themselves or a person authorized in writing by the Commissioner of the Georgia Department of Human Resources.

Adopted by the State Board of Health on March 20, 1935 and subscribed to and readopted by the Board of Human Resources on January 16, 1974.

Authority Ga. L. 1964, p. 499 et seq, as amended; Ga. L. 1972, pp. 1015, 1046 et seq; and Ga. L. 1972, p. 1069 et seq. Effective February 19, 1974. Administrative History. Original Rule was filed on January 30, 1974; effective February 19, 1974.

Attachment II

1025 Balsam Ave.
La Crescent, Mn., 55947
August 22, 1978

Comm. for the Writing of the Rules
and Regulations for the Vital Statistics
Bill, Chapter 699
Mr. Fred King, Director
MN. Dept of Vital Statistics
717 Delaware Street S.E.
Minneapolis, Mn., 55440

To the Committee:

We wish to express our thanks to Mrs. Merle Schultz and Mr. Frederick King for taking time to meet with genealogists for the purpose of exchanging ideas and promoting understanding of problems relating to the use of the Minnesota Vital Statistics Records. We express the feelings of most genealogists when we say that we are grateful for their efforts and the wisdom that they and the clerks of court which they represent have shown in the endeavor to find ways and means of preserving and safeguarding the precious documents of the counties.

Surely the Clerks of Court are the sector of the population who are most aware of the increase in the number of people seeking clues of their heritage. The use and mis-use of leisure time in our society creates problems for the taxpayers through law enforcement, welfare costs and more positively, through creation and upkeep of recreational and cultural facilities. But here is an educational hobby which need not be an added burden to the taxpayer. Genealogy is a rewarding use of leisure time for, among others, the elderly, people of limited income, and people who for one reason or another cannot indulge in a pasttime requiring a lot of mobility. This is a type of "addiction" which is not harmful and can only be broadening to the individual and the many people with whom he or she shares the discoveries. A serious study of the "place in time" of ancestors leads to increased interest in history, geography and political, religious, and social conditions. Do not pass over this hobby lightly as a waste of

OCT 16 1978

time and money. Properly done, it is a hobby of enrichment resulting in further understanding of ones values and culture.

Thanks to Mrs. Schultz and Mr. King, we are now enlightened as to the many problems and responsibilities our Clerks of Court must consider. However, the problems at the state level seem to differ somewhat from those at the county level. For example, only the counties have the old records which do not present the problem of illegal use that is of concern prevalent at the state level. Some of the restrictions that need to be imposed at the state level may not be necessary at the county level, particularly regarding the use of records 75 years or older. Personal access to these old records is of prime importance to the genealogist.

The Clerks of Court have under their jurisdiction documents which, in many instances, may hold the only clue through which the genealogist may progress to other areas. For this reason we share your intense desire to preserve the records and are vitally concerned about their accessibility. In making your decision regarding implementation of the law, you will be considering the ways which are of most value to the researcher and yet provide privacy and security from mis-use. We believe that Mrs. Schultz has diagnosed the problem correctly and has tested the method. By allowing the searcher to pay for the services of an ever-present assistant, the records are guarded against both physical and legal mis-use. The user is paying for the services, thus protecting the taxpeyer. The genealogist has the opportunity to examine all entries for possible relatives or for name variations that were previously unknown. The researcher frequently finds a death recorded for a parent of an immigrant ancestor whose existance in this country was unknown to present

descendants. This element of the unknown is the basic frustration of the genealogist when asking others to do their searching.

Perhaps most of all, the thrill of discovery is a first hand experience which cannot be duplicated in any other manner. A time worn example might be that a slip of paper announcing a gift does not have the same thrill as the joy of opening the present. This is a weak comparison because the genealogist's desire stems from something much deeper and dearer. Certainly the researcher could be expected to work within a framework of regulations agreed upon by the clerks so that they may not be hindered in fulfilling their prime responsibilities. This simple, practical, solution devised by Mrs. Schultz appears to work to the satisfaction of all parties involved. Please give it serious consideration.

Sincerely,

Neva Anenson
Joy Reisinger
Charles Anenson
Beverly McDowell
Ivy McCune
Mason H. Witt
Anita J. Lee
Lee E. Grippen
Gayle G. Grippen
Jo Hefte

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA

COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules Relating to Vital Statistics

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Minnesota Commissioner of Health on the 22nd day of January, 1979, at 9:30 a.m., in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, after proper notice required by Minn. Stat. § 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose and following publication of the rules.

After affording interested persons an opportunity to present written and oral data, statements and arguments, and having heard and considered all of the testimony and evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 7 MCAR §§ 1.007-1.015 relating to Vital Statistics are adopted this ____ day of _____, 1979, pursuant to authority vested in me by Minn. Stat. §§ 144.11, 144.12, and 144.151-144.227 (1978).

STATE OF MINNESOTA

COMMISSIONER OF HEALTH

George R. Pettersen M.D.

GEORGE R. PETTERSEN, M.D.
Commissioner

STATE OF MINNESOTA
OFFICE OF HEARING EXAMIENRS

FOR THE DEPARTMENT OF HEALTH

IN THE MATTER OF THE PROPOSED)
AMENDMENTS TO RULES OF THE)
MINNESOTA DEPARTMENT OF HEALTH)
RELATING TO VITAL STATISTICS)

REPORT OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on January 22, 1979, before Peter C. Erickson, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, Subd. 3, was issued to the Department of Health on February 28, 1979; and

WHEREAS, the Department of Health has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, Subd. 4; and

WHEREAS, the Department of Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, Subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Health has met all requirements of Minn. Stat. § 15.0412, Subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Health has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, Subd. 4.

Dated this 11th day
of April, 1979.

DUANE R. HARVES
Chief Hearing Examiner

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General William G. Miller, do hereby declare that I have examined the proposed amendments to rules relating to vital statistics and all related documents and that, based on such examinations and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Dated: April 18, 1979

WILLIAM G. MILLER
Special Assistant
Attorney General

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF HEALTH

In the Matter of the Proposed Amendments to Rules of the Minnesota Department of Health Relating to Vital Statistics.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Peter C. Erickson of the State Office of Hearing Examiners at 9:30 a.m. on Monday, January 22, 1979, in the Department of Health Building, Minneapolis, Minnesota.

William Miller, Special Assistant Attorney General, appeared as counsel for the Minnesota Department of Health; Fred King, State Registrar of Vital Statistics, testified in support of the proposed amendments on behalf of the Department of Health. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

The Department of Health shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record, including its Findings and Order, to the Chief Hearing Examiner no earlier than five days subsequent to the receipt of this Report. This submission shall clearly indicate any changes made to the rules as originally proposed, preferably in the format that will be submitted to the State Register for publication. The Chief Hearing Examiner shall complete his review and submit his report to the Department of Health on the issues of substantial changes in the rules and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. Thereafter, the Department of Health shall be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On November 30, 1978, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules;
(b) A proposed Order for Hearing;
(c) A proposed Notice of Hearing; and
(d) A statement of the estimated length and number of people attending the hearing.

2. On December 13, 1978, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

3. On December 18, 1978, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1244.

4. On December 27, 1978, the Department filed the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing as mailed;
(c) The Affidavit of Receipt of the Secretary of State's list;
(d) The Affidavit of Mailing;
(e) The Secretary of State's Certificate and List;
(f) The Statement of Need and Reasonableness;
(g) The Statement of Witnesses including the names of Department personnel who will represent the agency.

5. The record remained open through January 29, 1979, for the receipt of written comments and statements.

6. The Department of Health asserts that statutory authority to promulgate and adopt the proposed rules is contained in Minn. Stat. Sec. 144.11, Sec. 144.12 (1976) and Minn. Stat. Sec. 144.151 through Minn. Stat. Sec. 144.227 (1976), as amended by Laws, 1978, ch. 699.

7. The proposed amendments to rules relating to vital statistics is an attempt by the Department of Health to conform to the 1978 legislative amendments to the statute relating to vital statistics, Minn. Stat. Sec. 155.151 through Minn. Stat. Sec. 144.227 (1976), as amended by Laws, 1978, ch. 699.

8. The rules relating to vital statistics, 7 MCAR Sec. 1.007 through Sec. 1.015, in their present form use terms and phrases which have either become outdated or are now inconsistent with the amended statute. Whenever these terms and phrases are used, the Commissioner proposed to change them in order to conform with either modern terminology or the language in the amended statute.

a. The definition and references to "delayed registration" throughout these rules have been changed from a record filed later than six months to one filed more than one year after the event. This change conforms with the accepted definition of delayed registration used by the majority of the states and Federal agencies.

b. References in the rules to the "Board" have been changed to the "Commissioner" as the Board of Health was abolished by the 1976 Legislature.

c. References to "regulation" have been changed to "rule" to conform with existing statutory language.

d. References to "fetal death certificate" have been changed to "fetal death report" as information concerning fetal deaths is now collected on a statistical report rather than a legal certificate.

e. For purposes of clarity and brevity, the term "local registrar" is substituted for "clerk of district court" and "health officer" whenever they are referred to in these rules.

f. The term "out of wedlock" is proposed to replace the word "illegitimate" whenever referred to in these rules. The term "illegitimate" is archaic and outdated while the term "out of wedlock" does not carry the stigma or value judgment associated with "illegitimate.

g. These proposed changes in terminology occur throughout 7 MCAR Sec. 1.007 through Sec. 1.015 relating to vital statistics. The Examiner

concludes that all of the above changes in terminology are both needed and reasonable.

9. Rule 7 MCAR Sec. 1.007 sets-out some general provisions relating to vital statistics. The proposed amendments revise some of these existing provisions and make necessary additions.

a. The Department originally requested adoption of proposed amendment 1.007 M. relating to certificate forms, but has since reviewed this subsection and has amended it to read, "The form of birth and death certificate shall be determined by the Commissioner. The form and use of such certificates shall be subject to the Vital Statistics Act and these rules." This change would prevent an improper delegation of rule making power to the National Center for Health Statistics that would occur if the proposed rule were left unchanged.

b. The Department proposes that the original amendments to Sec. 1.007 N.1. be further amended to include the language, "Effective July 1, 1979." The Department believes that a stated effective date would guarantee proper notice to both the public and local registrar.

c. The First Amendment Committee of the Minneapolis Star and Tribune, Leslie Gillund and John Arnold, commented that the phrase "verification of information" in Sec. 1.007 N.5. is confusing. They recommend that a sentence be added explicitly stating that "inspection of records by a member of the public does not constitute verification as used in these rules".

d. Wiley Pope commented that the $5.00 per hour fee in Sec. 1.007 N.5. could be interpreted as a charge on physical access to the records. He recommended that the language be changed to read "$5.00 per hour for staff time expended".

e. Senator Merriam and Leslie Gillund recommended that Sec. 1.007 N.5. include a sentence stating that the $5.00 per hour fee be pro rated if the amount of time is less than an hour.

f. The First Amendment Committee of the Minneapolis Star and Tribune recommended that the words "at least" be deleted from the last sentence of Sec. 1.007 N.5. describing specific information because the language would allow open-ended discretion to each registrar. As such, the proposed rule would be unreasonable.

g. Lyle Krueth commented that Sec. 1.007 N.5. was in conflict with the Vital Statistics Act, because the $5.00 per hour fee would not be "payable at the time of the application", and it would not "approximate the costs incurred", as required by Minn. Stat. Sec. 144.226, subd. 1(e). He recommended the fee be changed to a per item charge. The Department testified, however, that their studies showed that $5.00 per hour does in fact approximate the costs incurred.

h. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.007 are both needed and reasonable with the exception of paragraph f. above. The Examiner recommends that the proposed rules be further amended as set forth in paragraphs a., b., c., d. and f. above for the reasons stated therein.

10. Rule 7 MCAR Sec. 1.008 sets-out provisions relating to Birth registration. The proposed amendments revise some of these existing provisions and make necessary additions.

a. The American College of Nurse-Midwives recommends that Sec. 1.008 A.2. should not delete midwife from its first sentence. They recommend that this sentence should read, "The physician, certified Nurse-Midwife or other person operating under the supervision of a physician, in attendance at birth,".

b. Linda Donaldson, coordinator of the DFL Feminine Caucus, recommended that Sec. 1.008 A.3.b. be changed to read, "Legal name of mother or maiden name if legal name is different" because many women now do not change their name when they get married.

c. Lyle Krueth commented that the language of Sec. 1.008 H. relating to Foundling registration is in conflict with the statutory language of Minn. Stat. Sec. 144.216. However, since the Department has not proposed to amend this section at this time, any proposed changes go beyond the noticed scope of the hearing.

d. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.008 are both needed and reasonable. However, the Examiner recommends that the proposed amendments be further amended as set forth in paragraph b. above for the reason set-out therein.

11. Rule 7 MCAR Sec. 1.009 sets-out provisons relating to alterations and amendments of vital records. The proposed amendments to this rule are primarily changes in terminology. These changes are necessary to coordinate the rules with contemporary statutory language. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.009 are both needed and reasonable.

12. Rule 7 MCAR Sec. 1.010 provides for the replacement of birth records. The proposed amendments to this rule do not change the substance of the provisions, but only revise certain terms and phrases. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.010 are both needed and reasonable.

13. Rule 7 MCAR Sec. 1.011 governs delayed registrations. The proposed amendments to these rules would make minor revisions to terms and phrases used in the current rule. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.011 are both needed and reasonable.

14. Rule 7 MCAR Sec. 1.012 sets-out provisions governing certification. The proposed amendments make necessary changes in terminology and add language which had been deleted from the vital statistics statutes. It was believed that these provisions could be best addressed through the rule making process. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.012 are both needed and reasonable.

15. Rule 7 MCAR Sec. 1.013 sets-out provisions governing access to vital statistics records. The proposed amendments to this rule establish criteria allowing public access that would comply with the statutory mandate provided in the Vital Statistics Act, Minn. Stat. Sec. 144.225, subd. 1 (1978).

a. Leslie Gillund, John Arnold and Senator Merriam recommended that the term "commercial use of purpose" be defined in Sec. 1.013 A. The Department has not proposed to amend Rule 7 MCAR Sec. 1.013 A. in that regard; however, so the proposed change goes beyond the noticed scope of the hearing.

b. The First Amendment Committee of the Minneapolis Star and Tribune and Senator Merriam recommended that the phrase "such things as" be deleted from Sec. 1.013 C. They state that this language would permit the local registrars' unbridled discretion to consider whatever factors they deem pertinent. As such, the proposed rule is unreasonable.

c. The First Amendment Committee and the Minneapolis Star and Tribune and Senator Merriam recommended that the phrases "the registrar's work load" and "the urgency of the request" be deleted from Sec. 1.013 C. They state that the registrar's work load and the urgency of the request are not reasonably related to the legislative purpose expressed in Minn. Stat. Sec. 144.225, subd. 1, and thus go beyond statutory authority.

d. Leslie Gillund, John Arnold, Senator Merriam and Wiley Pope all commented that the phrase "upon receipt of a written request" as used in Sec. 1.013 C. is confusing. This phrase could be interpreted as precluding all walk-in requests for access to the records. In order to clarify, the Examiner recommends that this phrase should be changed to read "upon receipt of a written request or completed application".

e. Leslie Gillund and Nancy Boyle, professional genealogists, Senator Merriam and other concerned member of the public commented that Sec. 1.013 C. be revised to reflect the policy of allowing the professional genealogist "comprehensive accessibility". Minn. Stat. Sec. 15.17, subd. 4, requires that "comprehensive accessibility shall be given historians, genealogists and other scholars".

f. Senator Merriam recommended that Sec. 1.013 C. be amended to provide medical researchers with access to information pertaining to births out of wedlock. Minn. Stat. Sec. 144.225, subd. 4, provides the state registrar with discretion to give medical researchers this privilege. It was suggested that the rules should incorporate and expound upon this statutory provision.

16. In response to the comments set forth above in Finding No. 15, the Examiner points out that Minn. Stat. Sec. 144.225, subd. 1, states that the Commissioner may promulgate rules regarding public access to records "to protest vital records from loss, mutiliation or destruction and to prevent improper disclosure of records which are confidential or private data on individuals, as defined in section 15.162, subdivisions 2a and 5a." Factors such as the "registrar's work load" and the "urgency of the request" go beyond any reading of the statute. Use of the language "shall consider such things as" makes the rule unreasonable as no specific criteria are set. The clear intent of the Vital Statistics Act and Minn. Stat. Sec. 15.17, Official Records, is that all public records be accessible to the public. "Researchers, including historians, genealogists and other scholars" are given a "comprehensive accessibility" exemption in Minn. Stat. Sec.

15.17, subd. 4. Minn. Stat. Sec. 144.225, subd. 4, grants medical researchers an exemption for access to certain kinds of private and confidential data. The Examiner concludes that 7 MCAR Sec. 1.013 C. is both unreasonable and goes beyond statutory authority as proposed. The paragraph should be revised bearing in mind the statutes cited above and in conformance with the proposed change set out in paragraph d. above.

17. Rule 7 MCAR Sec. 1.014 sets-out provisions relating to death registration. The proposed amendments to this rule fix responsibility for filing death certificates and reporting fetal death. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.014 are both needed and reasonable.

18. Rule 7 MCAR Sec. 1.015 sets-out provisions relating to burial and removal permits. The proposed amendments provide for the timely and complete registration of deaths by requiring that a death certificate be filed prior to the issuance of a permit for burial or transportation of the body.

a. Lyle Krueth recommends Sec. 1.015 D.1. be changed as the existing language may prevent the timely disposition of bodies. However, the Department has not proposed to amend this section, so any substantive changes go beyond the noticed scope of the hearing.

b. The Examiner concludes that the proposed amendments to Rule 7 MCAR Sec. 1.015 are both needed and reasonable.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Health. All other substantive and procedural requirements of statute or rule have been complied with.

2. Pursuant to Minn. Stat. Sec. 15.052, subd. 3, it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action; (ii) fulfilled all relevant, substantive and procedural requirements of law or rules; and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts."

3. The Department of Health has documented its statutory authority to promulgate the proposed rules with the exceptions noted in Finding No. 16.

4. The Department of Health has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts with the exceptions noted in Finding Nos. 9.h. and 16.

5. The Hearing Examiner suggests that the proposed rules be further amended as recommended in Finding Nos. 9.h., 10.d. and 16. The Department should further examine the entire record in this matter before final action is taken.

6. The Examiner concludes that additional amendments he is suggesting make the proposed amendments more reasonable and do not constitute a substantial change.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the Department of Health adopt the proposed amendments as recommended to be further amended in this Report and on the basis of the record made herein.

Dated: February 28, 1979.

Peter C. Erickson

PETER C. ERICKSON
Hearing Examiner