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CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to the preparation, transportation and disposition of human corpses and stillbirths were duly approved and adopted by this Department on December 10, 1992.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 10th day of December, 1992.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING AND REPEALING AND RECREATING RULES

To repeal HSS 141 and to repeal and recreate HSS 135, relating to the preparation, transportation and disposition of human corpses and stillbirths.

Analysis Prepared by the Department of Health and Social Services

This order updates the Department's rules for preparation, transportation and disposition of dead human bodies, mainly to incorporate changes made in ch. 69, Stats., and other relevant statutes by 1985 Wisconsin Act 315 but also to make other updating changes in the rules. The order also repeals ch. HSS 141, which is a definition of fetal death. That definition is no longer necessary because s. 69.18 (1) (e) 2, Stats., restricts use of the fetal death report to the reporting of stillbirths.

The Department has two interests which explain its involvement in regulating what is done with human corpses. One interest is protecting the health of the public and the other is providing for the complete, accurate and timely registration of deaths.

This order modifies ch. HSS 135 in accordance with changes made in ch. 69, Stats., by 1985 Wisconsin Act 315 to substitute "human corpse" for "dead human body" and to distinguish a human corpse from a stillbirth for purposes of regulating disposal of human remains; to add the requirement of a fetal death report for a stillbirth of 20 weeks or more gestational age or weighing 350 grams or more; to substitute a "report for final disposition," prepared by the funeral director or other person preparing a body for burial or other final disposition and submitted to the local coroner or medical examiner and the local registrar, for the "burial permit" issued by the local registrar; and to enable a family member, guardian or other authorized person to obtain a permit for the disinterment and reinterment of a human corpse by submitting a written application, signed also by the person in charge of the proposed disinterment, to the appropriate coroner or medical examiner.

The order also modifies ch. HSS 135 to assign the coroner or medical examiner of each county responsibility for establishing procedures within the county for the legal pronouncement of death when a death occurs outside of a hospital or nursing home; to delete as archaic specific authority given the local public health officer to prohibit public funerals during an epidemic; and also to delete as archaic specific procedures for preparation of a human corpse for donation to a medical school and the requirement for embalming of a donated body immediately upon receipt of it.

The Department's authority to repeal and to repeal and recreate these rules is found in ss. 69.02(2), 140.05(3) and 157.01, Stats. The rules interpret ss. 69.01 to 69.12, 69.18, 140.05(1), 157.01 and 979.10, Stats.

SECTION 1. HSS 135 is repealed and recreated to read:

CHAPTER HSS 135

HUMAN CORPSES AND STILLBIRTHS

HSS 135.01	Purpose and authority	HSS 135.06	Transportation and burial or other disposition
HSS 135.02	Definitions	HSS 135.07	Disinterment
HSS 135.03	Responsibility for notification of death	HSS 135.08	Pronouncement of death out of a hospital or nursing home
HSS 135.04	Removal from a hospital or nursing home	HSS 135.09	Jurisdiction and duties of coroner or medical examiner
HSS 135.05	Preparation and funeral		

HSS 135.01 PURPOSE AND AUTHORITY. This chapter and ch. HSS 136 regulate the preparation, transportation and disposition of human corpses and stillbirths for purposes of protecting the health of the public and properly registering deaths. The chapter is promulgated under the authority of ss. 69.02(2), 140.05(3), and 157.01, Stats., to interpret and contribute to the implementation of ss. 69.01 to 69.12, 69.18, 140.05(1), 157.01 and 979.10, Stats. Nothing in this chapter shall prevent a member of the immediate family from preparing the corpse of a family member for burial, except as provided in s. HSS 135.05(1)(b), or from conducting the funeral of a deceased family member.

HSS 135.02 DEFINITIONS. In this chapter:

(1) "Common carrier" has the meaning prescribed for "common motor carrier" in s. 194.01(1), Stats., and in addition includes a vehicle using rails, air or water to transport persons or property.

(2) "Cremation permit" has the meaning prescribed for a release to cremate in sub. (18).

(3) "Death certificate" means the form prescribed and supplied by the department which contains such items of information as the department judges necessary to identify the decedent and to certify the cause or causes of death.

(4) "Department" means the Wisconsin department of health and social services.

(5) "Disinterment permit" means the form prescribed by the coroner or medical examiner to authorize removal of a human corpse from a grave or tomb and which contains items of information that are necessary to identify the deceased, the date and place of death, the current place of interment, the intended place of interment, the name of the person requesting the disinterment and the name of the person in charge of the disinterment.

(6) "Disposition" means, in reference to a human corpse or stillbirth, burial, entombment in a mausoleum or separate vault, temporary storage, cremation or donation for scientific research or teaching use.

(7) "Embalming" has the meaning designated in s. HSS 136.02(1).

(19) "Release to embalm" means the form supplied by the county coroner or medical examiner which provides written permission required under s. 979.01(4), Stats., for embalming a human corpse in the case of a death subject to investigation under s. 979.01, Stats., and which contains information necessary to identify the deceased, the date and place of death, the name of the funeral director or person acting in place of the funeral director and which specifies that no authorization is given to override the wishes of the next of kin.

(20) "Report for final disposition" means the form prescribed and supplied by the department or reproduced from the form prescribed and supplied by the department for the purpose of recording the facts of a death and reporting those facts to the coroner or medical examiner of jurisdiction under s. 69.18 (3), Stats., and to the local registrar in the registration district in which death was pronounced. This form serves as the official "burial transit permit" for transporting a human corpse out of state or by common carrier.

(21) "Stillbirth" means a fetus born dead, irrespective of the duration of pregnancy, with death indicated by the fact that after expulsion or extraction from the woman, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord or definite movement of the voluntary muscles.

(22) "Universal precautions" means universal blood and body fluid precautions to be practiced by funeral directors and registered apprentice funeral directors in removing bodies and preparing them for burial or entombment or for transportation, as recommended by the U.S. public health service's centers for disease control, to prevent transmission of blood-borne and body fluid-borne infections.

Note #1: A copy of the universal precautions may be obtained from Occupational Health Section, Bureau of Public Health, 1414 E. Washington Ave., Madison, WI 53703.

Note #2: Inquiries concerning death certificates, fetal death reports, notices of removal, reports for final disposition and disinterment permits should be sent to Vital Statistics Section, Division of Health, P.O. Box 309, Madison, Wisconsin 53701.

HSS 135.03 RESPONSIBILITY FOR NOTIFICATION OF DEATH. (1) When a person dies, the funeral director or, if a funeral director is not involved, a member of the immediate family of the deceased, shall present or mail a completed death certificate to the local registrar in the registration district where death was pronounced within 9 days after the date of pronouncement of death.

(2) For a stillbirth resulting from miscarriage and of a gestational age 20 weeks or more or weighing 350 grams or more, the hospital, clinic or midwife or, if a hospital, clinic or midwife was not involved with the delivery, a parent, shall within 5 days after the delivery mail a completed fetal death report to the local registrar in the registration district where the delivery took place.

HSS 135.04 REMOVAL FROM A HOSPITAL OR NURSING HOME. (1) HOLDING, PENDING DECISION OF RELATIVE, FRIEND OR PUBLIC AUTHORITIES. Hospital or nursing home authorities shall make provision for holding a human corpse until a relative, friend

(c) A corpse need not be embalmed when prepared for burial, entombment or cremation unless it is to be shipped by common carrier as provided under par. (d).

(d) Every corpse to be shipped by common carrier shall be embalmed except a corpse that it is not possible to embalm, a corpse donated to a school for research and training purposes under s. HSS 135.06(2), or when the immediate family of the deceased objects to embalming on religious grounds. Whenever a corpse to be shipped by common carrier is not embalmed or is in a state of decomposition, the corpse may be shipped only after being enclosed in a strong, tightly sealed outer case.

(e) Embalming standards shall be as specified in ch. HSS 136.

(f) No one other than the licensed funeral director and registered apprentice funeral director shall be allowed in the embalming room during the embalming except at the request of or with the permission of the immediate family of the deceased. Apart from these exceptions, the preparation of human corpses for final disposition shall be entirely private.

(g) A large-type copy of par. (f) shall be permanently fastened to the door of the preparation or embalming room in all funeral establishments.

(h) A licensed funeral director may embalm and otherwise prepare for burial or other disposition a human corpse in the home of a deceased person or in the home of a relative of the deceased person.

Note: When a death has occurred under any of the circumstances listed in s. 979.01(1), Stats., embalming must be delayed until authorized in writing by the coroner or medical examiner of the county in which the injury or other cause of death occurred, pursuant to s. 979.01(4), Stats.

(2) FUNERALS. A funeral may be conducted from the home of the deceased person or from the home of a relative of the deceased person.

HSS 135.06 TRANSPORTATION AND BURIAL OR OTHER DISPOSITION. (1) REPORT FOR FINAL DISPOSITION. (a) 1. Except for transportation under s. HSS 135.07 for purposes of reinterment, a report for final disposition completed by the funeral director or other person preparing the body for burial or other final disposition shall accompany each human corpse shipped by common carrier.

2. The report for final disposition shall be attached in a strong envelope to the shipping case when a human corpse is transported by common carrier.

3. No human corpse may be buried or otherwise finally disposed of unless accompanied by a report for final disposition which shall serve as authorization for burial or other disposition except cremation. Every person in charge of a place in which burial or other final disposition takes place shall keep a written record of every corpse interred there. A copy of the report for final disposition may serve as that record.

(b) 1. No human corpse of a person who died in Wisconsin may be shipped or otherwise transported out of the state unless accompanied by a copy of the completed report for final disposition. In addition, if the death was subject to

investigation and certification by a coroner or medical examiner under s. 69.18(2)(d), Stats., the corpse shall be accompanied by written permission of the coroner or medical examiner to embalm the corpse and carry out its final disposition. If the corpse is to be cremated, written permission of the coroner or medical examiner with jurisdiction under s. 979.10 (1) (a), Stats., is required.

2. No stillbirth delivered in Wisconsin may be shipped or otherwise transported out of the state unless accompanied by a completed report for final disposition.

(c) No human corpse or stillbirth may be shipped or transported into Wisconsin from another state or territory or from a foreign country unless accompanied by an official burial document from the state or territory where the death occurred or from the federal government in connection with a death in a foreign country. In this paragraph, "official burial document" means a burial permit or equivalent official document provided for in the laws of the state or territory of origin or by the federal government, which identifies the body, indicates the date and place of death and provides information on the cause of death.

(2) DONATION OF BODIES FOR RESEARCH AND TEACHING. (a) A human corpse may be donated to a medical or dental school anatomy department under s. 157.06, Stats., or to a medical school or school of mortuary science under s. 157.02(3), Stats.

(b) Because all or part of a donated body will eventually be cremated, the corpse of a person who died in Wisconsin which is being donated for research or training may not be transported out of the county in which the death occurred until the coroner or medical examiner having jurisdiction under s. 979.10(1)(a), Stats., has been notified for the purpose of issuing a cremation permit.

(c) A human corpse donated to a school identified in par. (a) shall be transported to arrive at the school within 24 hours after death unless, pursuant to s. 157.06(8)(a), Stats., a funeral service or other last rites are conducted in which case embalming techniques specified by the school shall be used to preserve the body and the corpse shall be transported to arrive at the school as soon as possible after the rites have been concluded.

(3) CREMATION. (a) No person may cremate a human corpse unless the person has received a cremation permit from the appropriate county coroner or medical examiner under s. 979.10(1)(a), Stats.

(b) Cremation of a human corpse shall be considered final disposition of that body. No additional permit covering transportation of the ashes of a cremated body or interment or other disposal of the ashes of a cremated body is required.

(c) No cremation permit is required for cremation of a stillbirth.

HSS 135.07 DISINTERMENT. (1) No human remains that are buried or resting in a permanent vault may be disinterred, transported and reinterred unless a disinterment permit is first obtained from the coroner or medical examiner of the county in which the disinterment is to take place.

(2) The coroner or medical examiner shall issue a disinterment permit, without requiring as a condition the presentation of a death certificate or report for final disposition, upon receipt of an order of a court of competent jurisdiction or upon receipt of a written application signed by the person in charge of the disinterment and by any person listed in s. 69.18 (4) (a) to (f), Stats., in order of priority stated and under the stated conditions.

(3) The disinterment permit shall constitute authorization to transport and reinter the disinterred remains.

HSS 135.08 PRONOUNCEMENT OF DEATH OUTSIDE OF A HOSPITAL OR NURSING HOME. The coroner or medical examiner of a county shall establish procedures for use within that county for the legal pronouncement of death outside of a hospital or nursing home.

HSS 135.09 JURISDICTION AND DUTIES OF CORONER OR MEDICAL EXAMINER. (1) DEATHS REPORTABLE UNDER S. 979.01, STATS. For a death that is reportable under s. 979.01, Stats.:

(a) If the death-producing incident occurred in the state, the coroner or medical examiner of the county in which the death-producing incident occurred shall be sent the report for final disposition, shall investigate the death and sign the medical certification portion of the death certificate and shall sign any release to embalm or release to cremate; and

(b) If the death-producing incident occurred outside the state, the coroner or medical examiner of the county in which death was pronounced shall be sent the report for final disposition, shall investigate the death and sign the medical certification portion of the death certificate and shall sign any release to embalm or release to cremate.


(2) DEATHS NOT REPORTABLE UNDER S. 979.01, STATS. For a death that is not reportable under s. 979.01, Stats., the funeral director or other person preparing the body for burial or other final disposition shall send the report for final disposition to the coroner or medical examiner of the county in which the death was pronounced who shall, if a cremation permit is requested, sign the release to cremate.

SECTION 2. HSS 141 is repealed.

The repeal and rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health and
Social Services

Dated: December 10, 1992

By: 

Gerald Whitburn
Secretary

SEAL:

Tommy G. Thompson
Governor

Gerald Whitburn
Secretary



Mailing Address
1 West Wilson Street
Post Office Box 7850
Madison, WI 53707-7850
Telephone (608) 266-9622

State of Wisconsin Department of Health and Social Services

December 10, 1992

Mr. Bruce E. Munson
Revisor of Statutes
119 Martin Luther King, Jr., Blvd.
2nd Floor
Madison, WI 53703

Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 135, administrative rules relating to the preparation, transportation and disposition of human corpses and stillbirths.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Whitburn".

Gerald Whitburn
Secretary

Enclosure