

# TITLE 28

## HEALTH AND SAFETY

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**Cross References**

This title cited in 31 Pa. Code § 301.203 (relating to filing requirements); 34 Pa. Code § 14a.44 (relating to manner and limitations of storage); 49 Pa. Code § 16.95 (relating to medical records); 49 Pa. Code § 21.284b (relating to prescribing, administering and dispensing controlled substances); and 49 Pa. Code § 41.1 (relating to definitions).

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**CHAPTER 1. ADMINISTRATION OF VITAL RECORDS**

**RECORDS OF BIRTH**

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### Authority

The provisions of this Chapter 1 issued under sections 2104 and 2111 of The Administrative Code of 1929 (71 P. S. §§ 534 and 541); and section 205 of the Vital Statistics Law of 1953 (35 P. S. § 450.205), unless otherwise noted.

### Source

The provisions of this Chapter 1 adopted October 30, 1959, unless otherwise noted.

### Cross References

This chapter cited in 28 Pa. Code § 501.4 (relating to regulations); and 28 Pa. Code § 501.63 (relating to birth certificate).

## RECORDS OF BIRTH

### § 1.1. Filing of birth certificates.

A certificate of birth shall be filed with the local registrar of vital records within 10 days after each birth has occurred.

### § 1.2. Filing registrations of foundling births.

(a) A registration form for each foundling child shall be filed within 10 days after the child has been first delivered to the custody of a person, agency or institution.

(b) The place where the child was found shall be entered on the form as the place of birth and the date of birth shall be by approximation.

(c) If the child is later identified and an original certificate of birth is found or created, the foundling certificate shall be sealed and filed and may be opened only by court order.

### § 1.3. Amendments to birth certificates.

The following documentary proof shall be required of persons making application for an amendment of a birth certificate following a change in civil status:

- (1) When the change involves a person whose birth is registered as illegitimate but who is legitimated by the subsequent marriage of his natural parents, a copy of the marriage certificate of the natural parents shall be submitted

together with a joint affidavit of the husband and wife signifying that they are the natural parents of the child.

(2) When the parentage of the child has been determined by a court of competent jurisdiction a certified copy of the court order shall be submitted.

(3) When the child has been legally adopted a certified copy of the decree of adoption or an official notice from the court of the fact of adoption shall be submitted. The notice shall include all facts necessary to locate, identify and amend the original certificate of birth of the person adopted.

(4) When the name of a person is changed by order of a court of competent jurisdiction a certified copy of the court order shall be submitted.

#### **§ 1.4. Delayed registrations.**

(a) If there is no record of birth on file with the Division of Vital Records and the birth occurred in this Commonwealth, a delayed registration of birth may be placed on file by the parents of a child up to 7 years of age without documentary evidence.

(b) Delayed registrations filed for children from 7 to 18 years of age or deceased persons may be executed by either parent or someone familiar with the facts of birth at the time of birth.

(c) Delayed registration for persons 18 years of age or older shall be filed by the subject.

(d) The face of the delayed registration form shall be completed and sworn to in the presence of a notarizing official and submitted to the Division of Vital Records in Harrisburg, together with one of the following pieces of documentary evidence:

(1) A certified copy of a county record showing the facts of birth.

(2) A notarized statement sworn to by the doctor or midwife who delivered the child.

(3) A baptismal certificate showing the facts of birth and certified by a priest or minister. The baptism shall have occurred 5 years prior to the date of application for delayed registration.

(4) A decree or certificate of adoption which shows the name of the child and the date and place of birth.

(e) In the event that none of the documents listed in subsection (d) are available, one recorded document at least 5 years old which conclusively establishes the correct name, date and place of birth shall be submitted.

(f) In every instance, there shall appear on the delayed registration of birth a notation as to the nature and date of the documentary evidence which was submitted and the certificate and copies thereof shall be marked "delayed."

#### **Source**

The provisions of this § 1.4 amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (3356).

**§ 1.5. Registration as other than the child of the mother's husband.**

(a) The child of a married woman and a man who is not the mother's husband, may be registered as the child of the biological father if under the following conditions:

(1) The mother signs, in the presence of a witness; the following statement: "I, (mother's name), do hereby acknowledge that (biological father's name) and I are the true and biological parents of (infant's name) born in the (hospital's name) on (date of birth) at (time). I hereby authorize and direct the (hospital's name) to submit a birth certificate to the Division of Vital Records identifying (biological father's name) as the father of the above infant"; and

(2) The mother's husband signs the following statement in the presence of a witness: "I, (husband's name), the undersigned, do hereby authorize the (hospital's name) to submit to the Division of Vital Records a birth certificate which identifies (biological father's name) as the father of (infant's name), who is the child of (mother's name), my lawful wife."

(b) A form shall be sent by certified mail return receipt requested to the last known address of the mother's husband. The form shall contain a clear explanation of these regulations and the statement set out in subsection (a)(2). The statement shall be printed in such a way that the husband, by inserting the word "not" after the word "do" within the statement, may withhold his authorization.

(c) If the mother's husband withholds his authorization, he shall be identified as the child's father.

(d) If the postal service is unable to effect delivery to the mother's husband, or if he makes no response within 10 days of receipt, his authorization may not be necessary to registering the child in accordance with the provisions of subsection (a)(1).

**Source**

The provisions of this § 1.5 adopted November 7, 1975, 5 Pa.B. 2926, amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (3356).

**Cross References**

This section cited in 28 Pa. Code § 1.8 (relating to application).

**§ 1.6. Registration of the child of an unmarried woman.**

The child of an unmarried woman may be registered with any surname requested by the mother. If no other surname is so requested, the child shall be registered with the mother's surname.

**Source**

The provisions of this § 1.6 adopted November 7, 1975, 5 Pa.B. 2926.

**Cross References**

This section cited in 28 Pa. Code § 1.8 (relating to application).

**Notes of Decisions**

In a disagreement over a child's name, the best interests of the child standard applies, not 28 Pa. Code § 1.6 which impermissibly distinguishes between unwed mothers and unwed fathers in violation of the Equal Rights Amendment to the Pennsylvania Constitution (Article 1, section 28) *In re Mull*, 18 D. & C.3d 290, 294 (1981).

**§ 1.7. Registration of children born in wedlock.**

(a) The designation of a child's name, including surname, is the right of the child's parents. Thus, a child's surname as recorded on its birth certificate may be the surname of either or both of the child's parents, a surname formed by combining the surname of the parents in hyphenated or other form, or a name which bears no relationship to the surname of either parent.

(b) If the parents are divorced or separated at the time of the child's birth, the choice of surname rests with the parent who has custody of the newborn child.

**Source**

The provisions of this § 1.7 adopted November 7, 1975, 5 Pa.B. 2926.

**Notes of Decisions**

The appellee did not lack standing to bring a name change action 18 months after birth against a custodial parent notwithstanding the provision of 28 Pa. Code § 1.7(b) vesting the custodial parent with the right to choose a newborn's surname. *Petition of Schidlemeir by Koslof*, 496 A.2d 1249 (Pa. Super. 1985).

**Cross References**

This section cited in 28 Pa. Code § 1.8 (relating to application).

**§ 1.8. Application.**

(a) Sections 1.5—1.7 (relating to registration as other than the child of the mother's husband; registration of the child of an unmarried woman; and registration of children born in wedlock), shall apply to children born on or after September 27, 1975.

(b) The birth certificate of a child born before September 27, 1975, but no earlier than September 27, 1968, may be amended upon application of the child's mother or custodial parent, under §§ 1.5, 1.6 or 1.7(b) or by the child's parents, under § 1.7(a), at a time up to the child's 7th birthday.

(c) The birth certificate of a person whose paternity has been established by court order or decree may be amended under §§ 1.5 or 1.6 upon application by that person, or if a minor, by the custodial parent. A certified copy of the court order or decree shall be attached to the request for amendment.

**Source**

The provisions of this § 1.8 adopted November 7, 1975, 5 Pa.B. 2926.

**§ 1.10. Free certified copies to parents of newborns.**

Upon receipt of each birth certificate of a living child, the Division of Vital Records shall send to the custodial parent of the child a certified copy of the original birth certificate of the child free of charge.

**Source**

The provisions of this § 1.10 adopted July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250.

**RECORDS OF DEATH**

**§ 1.11. Issuance of certificates of death.**

(a) Local registrars shall issue certificates of death from original certificates of death in their possession upon completion of a period of instruction on the preparation of certificates by representatives of the Division of Vital Records.

(b) For each certificate issued the local registrar shall receive a fee of \$2.00.

**Source**

The provisions of this § 1.11 amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (24401).

**INTERMENT, TRANSPORTATION AND DISINTERMENT OF DEAD BODIES AND FETAL REMAINS**

**§ 1.21. Depth of graves.**

(a) The distance from parts of the top of the outer case containing the casket may not be less than 1.5 feet (18 inches) from the natural surface of the ground.

(b) When a casket is not placed in an outer case or when a body is not placed in a casket, the distance from parts of the casket or body may be no less than 2 feet—24 inches—from the natural surface of the ground.

(c) The superintendent, sexton, caretaker or other person in charge of the cemetery shall be responsible for graves being dug to the depths required by subsections (a) and (b) and maintaining the depth requirements.

(d) This section does not apply to crypts for which there are no depth requirements.

**Authority**

The provisions of this § 1.21 issued under the sections 2104 and 2111 of The Administrative Code of 1929 (71 P. S. §§ 534 and 541); and section 506 of the Vital Statistics Law of 1953 (35 P. S. § 450.506).

**Source**

The provisions of this § 1.21 amended April 26, 1985, effective April 27, 1985, 15 Pa. B. 1523. Immediately preceding text appears at serial page (43927).

**§ 1.22. Structures for the dead.**

(a) *Crypts.* No dead human body shall be placed in a permanent crypt unless the crypt is fitted with a durable covering which may be tightly sealed after each interment, or unless the remains are encased in a sealed container from which no evidence of dissolution may escape.

(b) *Mausoleums.* No dead human body shall be placed in a permanent over-ground mausoleum or other structure for the dead unless the remains are encased in a container so sealed that no evidence of dissolution may escape.

(c) *Receiving vaults.* Receiving vaults may be used for the temporary reception of dead bodies, if the bodies are properly embalmed, for a period not exceeding 30 days, beyond which period special permission from the Department of Health shall be required. The responsible person in charge of a dead human body which is placed in a temporary vault shall make application for special permission at least 1 week prior to the expiration of the 30-day period. Bodies retained in a temporary vault may, within the initial 30-day period, be removed and interred in a cemetery in this Commonwealth or shipped, on the authority of the original burial permit. In every case the death certificate shall be filed within 96 hours after death. A new burial permit shall be secured by the person responsible for the final disposition of each dead human body which has been retained in a temporary vault beyond the 30-day period.

**Authority**

The provisions of this § 1.22 issued under sections 2104 and 2111 of The Administrative Code of 1929 (71 P. S. §§ 534 and 541); and section 506 of the Vital Statistics Law of 1953 (35 P. S. § 450.506).

**Source**

The provisions of this § 1.22 amended April 26, 1985, effective April 27, 1985, 15 Pa.B. 1523. Immediately preceding text appears at serial page (43927).

**Cross References**

This section cited in 49 Pa. Code § 13.184 (relating to prompt disposal of a deceased body).

**§ 1.23. Shipment of bodies dead of noncontagious diseases.**

(a) Human bodies, dead of noncontagious diseases, which are to be shipped by common carrier to a point which cannot be reached within 24 hours after death shall be either embalmed or placed in a metal or metal-lined, hermetically sealed container. Bodies which remain unclaimed for 36 hours after death shall fall under the jurisdiction of the Humanity Gifts Registry and shall be shipped in accordance with its procedures.

(b) Except for bodies shipped by air, embalmed bodies shall be shipped by placing the casket in a strong outer box made of lumber not less than 7/8 inch

thick, bearing at least four carrying handles, two on each side, or six handles when the box is over 5 feet 6 inches in length, or an approved metal shipping case.

(c) For transportation by air the casket may be placed in a receptacle which meets the specifications of the carrier.

**Source**

The provisions of this § 1.23 amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (3359).

**§ 1.24. Transit permit.**

In addition to the burial permit, in all cases where dead human bodies are to be shipped by common carrier, or transferred while in shipment, a transit permit shall be securely attached to the outside case as authority for the shipment or transfer.

**§ 1.25. Disinterment of dead human bodies.**

(a) *Permit.* No dead human body shall be removed from its place of interment unless a disinterment permit is first secured from a local registrar who is authorized to issue a disinterment permit, according to the following requirements:

(1) The funeral director or cemetery official making the application shall present to the local registrar the correct name, date of death and cause of death of the body to be disinterred and written consent of next of kin, or appropriate order from a court of competent jurisdiction.

(2) No disinterred body shall be reinterred either in the same cemetery or another cemetery located in this Commonwealth unless a burial or removal permit is obtained.

(3) Disinterment permits shall be void after the expiration of 72 hours from the date of issue and no disinterment may be made between sunset and sunrise.

(4) Disinterment permits shall be delivered to the sexton or other person in charge of burial grounds in which the disinterments are to be made and shall be returned by him to the local registrar of the district where the body is reinterred within 30 days from the date the permit was issued.

(b) *Authorization.* Disinterments shall be authorized during any month of the year.

(c) *Transportation.* Except when the remains are found to be thoroughly desiccated, the transportation by public conveyance or common carrier of a disinterred body shall be forbidden unless the remains are encased in a hermetically sealed container. When a disinterred body is to be transported by common carrier, certification as to the facts in the case shall be presented by the qualified person in charge of the removal to the local registrar of the district in which the

disinterment is made and from which the body is to be transported. The local registrar shall issue a proper permit and no disinterred body may be transported without the permit.

(d) *Exhumation and exposure.* The remains of a dead body may not be exhumed and exposed to view without an order from a court of competent jurisdiction.

**Source**

The provisions of this § 1.25 amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial pages (3359) and (3360).

**CORRECTION OF RECORDS**

**§ 1.31. General.**

- (a) Certificates corrected without a court order shall be marked “corrected.”
- (b) The Division of Vital Records may require additional evidence to substantiate a correction when it is deemed necessary and proper to preserve the integrity of the records.
- (c) No correction may be made except in accordance with this chapter.

**Source**

The provisions of this § 1.31 amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (3360).

**§ 1.32. Correction or addition of names.**

Corrections or additions of the name of the subject on a birth certificate shall be made in compliance with the following:

- (1) If the subject is less than 1 year of age, correction may be accomplished by a statement signed by both parents.
- (2) If the subject is over 1 year of age, correction may be accomplished by an affidavit of both parents or the subject, if of legal age.

**§ 1.33. Correction of date of birth.**

Corrections in the date of birth on a birth certificate shall be made in compliance with the following:

- (1) If the subject is less than 1 year of age, correction may be accomplished by a statement signed by both parents together with a statement of the hospital, the attending physician or midwife.
- (2) If the subject is over 1 year of age, correction may be accomplished by an affidavit of both parents or of the subject, if of legal age, together with the baptismal record of the subject, early school record or other acceptable documents which shall conclusively prove the correct date. The supporting document shall be at least 5 years old.

**§ 1.34. Correction of spelling of names.**

Changes in the spelling of names on birth certificates shall be made in compliance with the following:

- (1) If the subject is less than 1 year of age, correction may be accomplished by a statement signed by both parents.
- (2) If the subject is over 1 year of age, correction may be accomplished by an affidavit of the parents or of the subject, if of legal age.
- (3) If the correction requested suggests a change in surname rather than the correction of the spelling of a surname, then the Department of Health may require additional recorded evidence or an order from a court of competent jurisdiction if it is deemed necessary to preserve the integrity of the records.

**§ 1.35. Changing names of children under the age of 15.**

(a) When a child of at least 7 but no more than 14 years of age has established through usage a name different from the name originally recorded on the birth certificate, the Division of Vital Records may, upon application therefor by the subject's custodial parent, guardian or legal representative, issue a regular certificate in the name the subject is actually using. Before the certificate is issued, the applicant shall submit to the Division of Vital Records adequate proof establishing usage of the name.

(b) Adequate proof shall consist of documents or official records demonstrating actual use of the name by the child during at least half of the child's lifetime.

**Source**

The provisions of this § 1.35 amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (3361).

**§ 1.36. Addition or correction of information on death certificates.**

(a) To add to or correct information pertaining to the deceased person except the medical certification and the place and date of death on a death or fetal death certificate, a signed statement covering the necessary corrections or additions shall be submitted by the informant who signed the original certificate or by the funeral director who filed such certificate.

(b) To add to or correct information pertaining to date or place of burial on a death or fetal death certificate a written statement covering the necessary corrections or additions shall be submitted by the funeral director.

**§ 1.37. Changes in the medical certification of cause of death.**

(a) To add to or correct information pertaining to the medical certification of cause of death or date or place of death, a written statement covering the necessary corrections or additions shall be submitted by the physician or coroner who signed the medical certification on the original certificate.

(b) If the correction requested changes the medical certification from a death due to natural causes to a death due to other than natural causes, then the affidavit of the person who signed the medical certification shall be requested.

### MISCELLANEOUS PROVISIONS

#### § 1.41. Qualifications for registrar.

The following qualifications shall be required of a person who is appointed local registrar or deputy registrar:

- (1) Legibility of hand writing or ability to use a typewriter.
- (2) Training or experience in simple office procedures, such as filing, indexing and the handling of valuable documents.
- (3) The ability to transcribe accurately from original documents.

#### § 1.42. Responsibilities of local registrars.

(a) *Verifications.* Local registrars in cities of the third class shall be authorized to verify the place and date of birth of a child for representatives of the Department of Education when they receive a signed request from an official of the school district.

(b) *Disclosures.* Local registrars shall be authorized to disclose information contained in vital statistics records to persons who have been supplied with an authorization card signed by the Secretary of Health.

(c) *Motor vehicle deaths.* The local registrar shall report to the Bureau of Highway Safety in Harrisburg the following facts copied from the death certificate received by the local registrar, and concerning deaths resulting from motor vehicle accidents:

- (1) Name and address of deceased.
- (2) Date and place of accident.
- (3) Date of death.

#### Source

The provisions of this § 1.42 amended through July 6, 1979, effective July 7, 1979, 9 Pa.B. 2250. Immediately preceding text appears at serial page (24403).

#### § 1.43. Designation of registrars.

The Secretary of Health may designate a medical director of a county department of health to act as local registrar within his registration district, with the authority to certify records, as long as the director shall have agreed, in writing, to be bound by the rules, regulations and directives of the Department of Health concerning records.

**§ 1.44. Penalties for unauthorized duplication.**

Subject to the penalties provided in sections 901 and 902 of the Vital Statistics Law of 1953 (35 P. S. §§ 450.901 and 450.902), no person may photograph, photostat, duplicate or issue what purports to be a certified copy, certification or certificate of birth, death or fetal death except for authorized employees of the Department of Health or its local registrars of vital statistics acting in accordance with directives, regulations or law governing their official duties.

**§ 1.45. Supplemental reports.**

Information omitted from original certificates of birth, death or fetal death may be added to the original certificate within 6 months after the date of filing of the certificate.

**§ 1.46. Fees for copies.**

(a) A fee of \$4.00 shall be paid by the applicant for each certified copy and for each No-Record Certification (NC-8) of a birth record issued to the applicant by the Division of Vital Records.

(b) A fee of \$3.00 shall be paid by the applicant for each certified copy and for each No-Record Certification (NC-8) of a death record issued to the applicant by the Division of Vital Records.

(c) A No-Record Certification shall be issued in each instance in which a thorough search of the records reveals that the certificate requested by the applicant is not on file with the Division of Vital Records.

**Source**

The provisions of this § 1.46 amended through March 28, 1980, effective March 29, 1980, 10 Pa.B. 1386. Immediately preceding text appears at serial page (43933).

**§ 1.47. Burial permits.**

No burial permit may be issued until the local registrar has been satisfied that the funeral director has complied with this chapter.

**§ 1.48. Maximum fees payable to local registrar.**

A local registrar may not receive an aggregate amount of fees in excess of \$20,000 in any one calendar year.

**Source**

The provisions of this § 1.48 added September 11, 1970, effective September 12, 1970, 1 Pa.B. 356.

**§ 1.49. Access by adoptees to identification of biological parents.**

(a) As used in this section, the term “biological parent” means natural parent as used in 23 Pa.C.S. §§ 2101—2910 (relating to the Adoption Act).

(b) A biological parent may consent to the disclosure of his identity by filing a Biological Parent Registration Identification Form with the Division of Vital Records. Each biological parent shall complete a separate form and each form shall be notarized. The Biological Parent Registration form is available from the Division of Vital Records.

(c) A biological parent may update his identifying information by filing an additional Biological Parent Registration Form with the Division of Vital Records.

(d) A biological parent may withdraw his consent to the disclosure of identifying information by filing a Withdrawal of Biological Parent Consent Form with the Division of Vital Records. Each biological parent shall complete a separate form and each form shall be notarized. The Withdrawal of Biological Parent Consent Form is available from the Division of Vital Records.

(e) The Division of Vital Records will release a biological parent's identifying information if the following requirements are met:

(1) The information is requested by an adoptee who is at least 18 years old or the information is requested by the adoptive parent or legal guardian of an adoptee who is less than 18 years old.

(2) A Biological Parent Registration Form is on file with the Division of Vital Records.

(f) If one biological parent has filed a Biological Parent Registration Form, only the name and address of that parent will be released. If both biological parents have filed Biological Parent Registration Identification Forms, information from the Certificate of Live Birth may be released.

(g) A biological parent may consent to the disclosure of his identity by the court where the permanent records of the adoption are located, by following the procedures set forth by the appropriate court.

#### **Authority**

The provisions of this § 1.49 amended under 23 Pa.C.S. § 2905; and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

#### **Source**

The provisions of this § 1.49 adopted December 24, 1981, effective December 26, 1981, 11 Pa.B. 4437; amended May 1, 1987, effective May 2, 1987, 17 Pa.B. 1736. Immediately preceding text appears at serial page (104776).

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