

GUIDELINE ON COMPLETION OF DEATH CERTIFICATES

Definitions

“Health practitioner” - means any person, including a student, registered with the council in a profession registerable in terms of this Act;

“Intern” - means a person registered as such under this Act;

Completion of death certificates

For the benefit of members, SAMA wishes to remind doctors of the regulations on death notification forms that were passed in 1998.

The new death notification form has two pages, which are detachable.

- The first page is used so that the burial can be authorised by the Department of Home Affairs, or to give an indication as to whether further investigations into the death is required by the South African Police Services and the Prosecuting Authority. On page 1 the cause of death is only indicated as “natural” or “unnatural”. The Department of Home Affairs uses the first page as proof of death to issue the death certificate, which is required by insurers in order to look into a claim relating to a life insurance policy, etc.
- The second page is confidential and is used by the state (Home Affairs) to collect data. On this the medical cause of death, which may include reference to HIV status as the cause of, for example, an infection that led to death. The deceased person is not named on this page, and the information found on it is used for statistical purposes. This second page may not be used by any other party and may not be given, even on request, to any third party, insurer, etc. The second page is meant to be sent to (or collected from the hospital by) the Department of Home Affairs. However, the practical recommendation is for the second page to be sealed in an envelope and stapled to the first page, to accompany the body to the undertaker. The Department of Home Affairs has indicated that it cannot deal with the notification form being separated from the first page.

Persons allowed to complete and sign death certificates

The South African Medical Association's (SAMA) Human Rights Law and Ethics unit has received numerous queries regarding whether or not an intern has the necessary authority to sign a death certificate.

In terms of section 36(2) of the Health Professionals Act (56 of 1974), interns are not prohibited from issuing any certificate or document which may be issued by a medical practitioner. In so doing

an intern was allowed to describe themselves as a medical practitioner. Under section 36 (2) (a) of the Act, student interns are permitted to issue documents pertaining to the service they perform under the supervision of a medical practitioner in respect of the performance of their duties.

Health Professions Act 56 of 1974

Section 36 - Penalties for practising as a medical practitioner or as an intern, or for performing certain other acts, while unregistered

(1) Subject to the provisions of subsections (2) and (3) and section 37 any person, not registered as a medical practitioner or as an intern, who-

- (a) for gain practises as a medical practitioner (whether or not purporting to be registered);
- (b) for gain-
 - (i) physically examines any person;
 - (ii) performs any act of diagnosing, treating or preventing any physical defect, illness or deficiency in respect of any person;
 - (iii) advises any person on his physical state;
 - (iv) on the ground of information provided by any person or obtained from him in any manner whatsoever-
 - (aa) diagnoses such person's physical state;
 - (bb) advises such person on his physical state;
 - (cc) supplies or sells to or prescribes for such person any medicine or treatment;
 - (v) prescribes or provides any medicine, substance or thing; or
 - (vi) performs any other act specially pertaining to the profession of a medical practitioner;
- (c) except in accordance with the provisions of the Medicines and Related Substances Act, 1965 (Act 101 of 1965), the Pharmacy Act, 1974 (Act 53 of 1974), the Health Act, 1977 (Act 63 of 1977), the Nursing Act, 1978 (Act 50 of 1978), the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act 63 of 1982), and sections 33, 34 and 39 of this Act, performs any act whatsoever having as its object-
 - (i) the diagnosing, treating or preventing of any physical defect, illness or deficiency in any person; and
 - (ii) by virtue of the performance of such act, the obtaining, either for himself or for any other person, of any benefit by way of any profit from the sale or disposal of any medicine, foodstuff or substance or by way of any donation or gift or by way of the provision of accommodation, or the obtaining of, either for himself or for any other person, any other gain whatsoever; [Para. (c) amended by s. 12 (a) of Act 58 of 1992 and by s. 33 (a) (i) of Act 89 of 1997.]

(d) pretends, or by any means whatsoever holds himself out, to be a medical practitioner or intern (whether or not purporting to be registered) or a healer, of whatever description, of physical defects, illnesses or deficiencies in man;

(e) uses the name of medical practitioner, intern, healer or doctor or any name, title, description or symbol indicating, or calculated to lead persons to infer, that he is the holder of any qualification as a medical practitioner, physician or surgeon, or as an obstetrician or intern or of any other qualification enabling him to diagnose, treat or prevent physical defects, illnesses or deficiencies in man in any manner whatsoever, or that he is registered under this Act as a medical practitioner or an intern;

(f) except in accordance with the provisions of the Medicines and Related Substances Act, 1965, the Pharmacy Act, 1974, the Health Act, 1977, the Nursing Act, 1978, the [Associated] Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982, and sections 33, 34 and 39 of this Act, by words, conduct or demeanour holds himself or herself out to be able, qualified or competent to diagnose, treat or prevent physical defects, illnesses or deficiencies in man or to prescribe or supply any medicine, substance or thing in respect of such defects, illnesses or deficiencies; or [Para. (f) substituted by s. 12 (b) of Act 58 of 1992 and by s. 33 (a) (ii) of Act 89 of 1997.]

(g) (i) diagnoses, treats or offers to treat, or prescribes treatment or any cure for, cancer;
(ii) holds himself out to be able to treat or cure cancer or to prescribe treatment therefore; or
(iii) holds out that any article, compound, medicine or apparatus is or may be of value for the alleviation, curing or treatment of cancer,
shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.
[Sub-s. (1) amended by s. 33 (a) (iii) of Act 89 of 1997.]

(2) The provisions of subsection (1) shall not prohibit-

(a) an intern working at an institution recognised by the council from-
(i) performing any function or issuing any certificate or other document which in terms of any law, other than this Act, may be or is required to be performed or issued by a medical practitioner, whether described in such law as a medical practitioner or by any other name or designation; or 16
(ii) describing himself as a medical practitioner in connection with the performance of any such function or the issuing of any such certificate or other document, and any reference in any such law to such a medical practitioner shall be deemed to include a reference to an intern;
[Para. (a) amended by s. 33 (b) of Act 89 of 1997.]

(aA) a student intern in the course of his training from-

- (i) performing under the supervision of a medical practitioner any act mentioned in paragraph (b) of subsection (1) which has been prescribed;

- (ii) issuing in connection with such performance of that act in the institution where he is undergoing his training, any document required in respect of the performance of that act;

[Para. (aA) inserted by s. 16 of Act 36 of 1977.]

(b) a pharmacist registered under the Pharmacy Act, 1974 (Act 53 of 1974), from performing any act falling within the scope of his profession as contemplated in that Act; or

[Para. (b) substituted by s. 12 (c) of Act 58 of 1992.]

(c) a dentist from performing any act falling within the scope of his profession as contemplated in this Act or from using any name, title, description or symbol normally associated with his profession.

(3) The provisions of subsection (1) (g) shall not-

(a) apply in respect of any act performed by any person in the course of *bona fide* research at any institution approved for that purpose by the Minister;

(b) be construed as prohibiting a dentist from-

- (i) diagnosing cancer while performing in respect of any person any act pertaining to the practice of dentistry; or
- (ii) treating cancer so diagnosed;

(c) apply in respect of-

- (i) any act performed by a pharmacist registered under the Pharmacy Act, 1974, or by an employee of such pharmacist acting within the scope of his employment, for the purposes of selling or promoting the sale of any medicine to another pharmacist or to any medical practitioner; or
- (ii) the sale of any medicine by any pharmacist to any person in pursuance of a written prescription of a medical practitioner.

(4) For the purposes of subsection (1) 'cancer' shall include all neoplasm's, irrespective of their origin, including lymphoma and leukaemia.

Although the above legislation allows student interns to sign documents such as death certificates, the Health Professions Council of South Africa holds that it is wise for interns to seek guidance from the doctors under whose supervision they work when called upon to sign death certificates or other important documents.

BIRTHS AND DEATHS REGISTRATION ACT No 51 of 1992 (as Amended)

Chapter 3 – Registration of Deaths

Section 14 – Death due to natural causes

- (1) In the case of a death due to natural causes any person who was present at the death, or who became aware thereof, or who has charge of the burial concerned, shall give, as soon as practicable, by means of a certificate mentioned in section 15(1) or (2), notice thereof to a person contemplated in section 4.
- (2) If the person contemplated in section 4 is satisfied on the basis of the certificate issued in terms of section 15(1) or (2) that the death was due to natural causes, he shall complete the prescribed death register and issue a prescribed burial order authorizing burial.
- (3) If, before a prescribed burial order has been issued, a person contemplated in section 4 has reasonable doubt whether the death was due to natural causes, he shall not issue a burial order and he shall inform a police officer as to such doubt.
- (4) If, after prescribed burial order has been issued, a person contemplated in section 4 has reasonable doubt whether the death was due to natural causes, he shall inform a police officer as to such doubt, and before the police officer acts in terms of the provisions of section 16, he shall, if the corpse has not yet been buried, withdraw and cancel the burial order.

Section 15 – Certificate by medical practitioner

- (1) Where a medical practitioner is satisfied that the death of any person who was attended before his death by the medical practitioner was due to natural causes, he shall issue a prescribed certificate stating the cause of death.
- (2) A medical practitioner who did not attend any person before his death but after the death of the person examined the corpse and is satisfied that the death was due to natural causes, may issue a prescribed certificate to that effect.
- (3) If a medical practitioner is of the opinion that the death was due to other than natural causes, he shall not issue a certificate mentioned in subsection (1) or (2) and shall inform a police officer as to his opinion in that regard.

Section 17 – Death due to other than natural causes

- (1) After an investigation as to the circumstances of a death due to other than natural causes in terms of Section 3 of the Inquests Act, 1959(Act No. 58 of 1959), the medical practitioner concerned shall, as soon as he is satisfied that the corpse concerned is not longer required for the purposes of an examination mentioned in the said section 3, issue a prescribed certificate to that effect and deliver it to the police officer concerned.
- (2) After the certificate referred to in subsection (1) has been issued, the police officer concerned, or any person contemplated in section 4, as the case may be, may, on the basis of the said

certificate, complete the prescribed death register, without stating a cause of death, and the police officer concerned or the person contemplated in section 4, as the case may be, may issue the prescribed burial order authorizing burial.

Section 18 – Still-birth

- (1) A medical practitioner who was present at a still-birth, or who examined the corpse of a child and is satisfied that the child was still-born, shall issue a prescribed certificate to that effect.
- (2) If no medical practitioner was present at the still-birth, or if no medical practitioner examined the corpse of a still-born child, any person who was present at the still-birth shall make a prescribed declaration there anent to any person contemplated in Section 4.
- (3) The certificate mentioned in subsection (1) or the declaration mentioned in subsection (2) shall be deemed to be the notice of the still-birth, and a person contemplated in section 4 shall, on the basis of such notice and if he is satisfied that the child was still-born, issue under the surname of any parent concerned a prescribed burial order authorizing burial.
- (4) If, before a prescribed burial order has been issued, a person contemplated in section 4 has reasonable doubt whether the child was still-born, he shall inform a police officer as to such doubt, and before the police officer acts interns of the provisions of section 16, he shall, if the corpse has not yet been buried, withdraw and cancel the burial order.

As set out above, it is quite essential for medical practitioners to take note of the relevant legislation and regulations which apply to their practice in so far it concerns the completion of Death (and birth) certificates.

Each and every medical practitioner should be aware of their responsibilities in this regard, not only to ensure their own accountability and liability is kept within the reasonable boundaries, but also to enable them to teach and educate the younger generation medical practitioners, interns and medical students.