

CHAPTER 59

AN ACT concerning information included on death certificates and amending R.S.26:6-7.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.26:6-7 is amended to read as follows:

Contents of death certificate.

26:6-7. a. The certificate of death shall contain such items as shall be listed on death certificate forms or in the NJ-EDRS provided or approved by the department under the authority of subsection c. of R.S.26:8-24. The death certificate forms or the record in the NJ-EDRS shall include, but not be limited to, the following items:

- (1) name of the decedent;
- (2) county or municipality in which the death occurred;
- (3) date of death;
- (4) sex of the decedent, as provided for in subsection b. of this section;
- (5) date of birth; and
- (6) date of issuance and manner of death, provided this information is available.

b. The sex of the decedent shall be recorded to reflect the decedent's gender identity, as reported by the person or persons with the right to control the funeral and disposition as established by section 22 of P.L.2003, c.261 (C.45:27-22), unless the person completing the death certificate is presented with a document that memorializes the decedent's gender transition. In the event that these sources provide conflicting information concerning the sex of the decedent, the death certificate shall be based on documentation that memorializes the decedent's gender transition. If documentation is not available, it shall be based on information provided by the person or persons with the right to control the funeral and disposition as established by section 22 of P.L.2003, c.261 (C.45:27-22). Documents that may memorialize a gender transition may include, but shall not be limited to: written instructions from the decedent; a court order approving a name or gender change; an advance health care directive; proof of clinical treatment for gender transition; or documentation of a change to the gender marker on a birth certificate or a state or federally issued identification card.

c. If a document specified in subsection b. of this section is not present and the person named executor of the decedent's will does not agree with the gender identity of the decedent as reported by the person or persons with the rights to control the funeral and disposition, that person may file a petition in the Superior Court naming as a party to the action the person or persons with the rights to control the funeral and disposition and seeking an order of the court determining, as appropriate, who among those parties shall determine the gender identity of the decedent.

d. A person or persons with the right to control the funeral and disposition and the responsibility to provide the funeral director with the decedent's gender identity warrants the truth of the facts stated and of their authority to provide the funeral director with the necessary information to complete the death certificate. A funeral director shall not be liable for any damages or costs arising from a claim related to a decedent's gender identity or expression on the death certificate unless the funeral director had reasonable notice that the representations were untrue or notice that the person or persons providing the decedent's gender identity lacked the right to control disposition.

2. The Commissioner of Health shall adopt rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

3. This act shall take effect on the fourth day of July next after the date of enactment.

Approved July 3, 2018.