

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 access to vital records were duly approved and adopted by this Department on May 2, 1991.

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 2nd day of May, 1991.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services

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ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
ADOPTING RULES

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To create HSS 142, relating to access to vital records.

Analysis Prepared by the Department of Health and Social Services

These are rules under which local registrars and the Department are to manage the access to vital records of persons examining those records, in the interests of protecting the records from mutilation, alteration and theft. A vital record is a certificate of birth, death, divorce or annulment, a marriage document or a fetal death report and related data. Chapter 69, Stats., requires that a vital record be made whenever one of these events occurs, and that the vital record be filed in the office of the register of deeds for the county or, for some cities, in the city health office. The local registrar will then make an official filing copy of the document and forward the original to the Department where it will be maintained on file. Vital records may be inspected at either location.

The rules incorporate a general policy on access to vital records, list the duties of registrars directed at safeguarding the records and list conditions for use of the records.

The Department's authority to adopt these rules is found in ss. 69.02(2) and 69.20(4), Stats. The rules interpret s. 69.20, Stats.

SECTION 1. HSS 142 is created to read:

Chapter HSS 142

ACCESS TO VITAL RECORDS

HSS 142.01	Authority and purpose
HSS 142.02	Applicability
HSS 142.03	Definitions
HSS 142.04	General policy on access to vital records
HSS 142.05	Duties of registrars
HSS 142.06	Volunteers
HSS 142.07	Conditions for users

HSS 142.01 AUTHORITY AND PURPOSE. This chapter establishes procedures for controlling access to paper records of births, deaths, fetal deaths, marriages, divorces and annulments that are maintained on file in the offices of local registrars or the department, for the purpose of protecting these vital records from mutilation, alteration or theft. The chapter is promulgated under the authority of ss. 69.02(2) and 69.20(4), Stats.

HSS 142.02 APPLICABILITY. This chapter applies to the department, to local registrars, including county registers of deeds and city health officers in cities that are registration districts, and to all persons who wish to examine a vital record to which access is not prohibited under ch. 69, Stats., or any other statute.

HSS 142.03 DEFINITIONS. In this chapter:

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

(2) "Local registrar" means the county register of deeds or the city health officer in a city which is a registration district.

(3) "Poor condition" in reference to a vital record in paper form means brittle, frayed, poorly attached to the book, faded or of poor legible quality.

(4) "Public index" means a list of key identifying items from vital records registered by the local or state registrar, which is issued by the local or state registrar and contains only information that is available to all persons with no restriction by statute or rule.

(5) "Records area" means a designated area in a registrar's office where vital records are stored and where they are made available for public use.

(6) "Registrar" means a local registrar or the state registrar.

(7) "Registration district" means a county or, for purposes of filing certificates of birth or certificates of birth and death, a city approved by the state registrar under s. 69.04 Stats..

(8) "Related data" means court orders, amendment forms of all types, affidavits, documentary proofs, correspondence and indexes associated with a specific vital record.

(9) "State registrar" means the state registrar of vital statistics appointed under s. 69.02(1)(b), Stats.

(10) "Vital record" means a certificate of birth, death, divorce or annulment, a marriage document or a fetal death report, including related data.

HSS 142.04 GENERAL POLICY ON ACCESS TO VITAL RECORDS. A vital record is a multi-purpose document. It acts as a formal record of the occurrence of a vital event, serves as legal proof for the individual that a vital event occurred and provides medical information to serve the needs of public health programs and health research. The state registrar and local registrars shall facilitate access by the public to non-confidential information that specified vital events occurred while at the same time protecting paper documents from alteration, theft or mutilation. The state registrar and local registrars shall provide certified documentary proof of a vital event for individual use to any person who requests that proof and has a direct and tangible interest as defined in s. 69.20(1) Stats. As provided in s. 69.21(2) Stats., the state registrar and local registrars shall issue uncertified copies to any person requesting uncertified copies, including any person not having a direct and tangible interest. The state registrar shall provide health and demographic data for public health program use and for health and demographic research use consistent with the provisions of s. 69.20, Stats., but shall require that users respect the legal confidentiality of the data.

HSS 142.05 DUTIES OF REGISTRARS. Registrars shall:

(1) Permit persons who want to examine and take notes from public indexes and examine and take notes from vital records to do those things but under the conditions set out in this chapter and subject to the restrictions in ch. 69, Stats., and any other statute which limits access to all or parts of certain records and to types of records;

(2) Establish reasonable hours during which interested persons may examine and take notes from vital records, notify the state registrar of the hours and post the hours in a conspicuous place in the registrar's office;

(3) Establish reasonable conditions consistent with this chapter for interested persons to examine and take notes from vital records, and post these conditions and the conditions under s. HSS 142.07(1) in a conspicuous place in the registrar's office;

(4) Verify the identity of every person who asks to enter the records area to examine and take notes from vital records and maintain a sign-up system for record users, allowing signers the option of making their names available to others or not;

(5) Provide a place outside the records area for record users to store their coats and briefcases, purses, bags and other handcarried items at their own risk;

(6) Identify to record users wanting to examine or take notes from

records any record that is in poor condition, and require staff assistance to examine or take notes from any record that is in poor condition;

(7) Prevent public access to legally confidential materials, and in this regard properly maintain public indexes to exclude legally confidential information;

(8) Maintain general surveillance of vital record users;

(9) Limit the number of record users admitted to the record area at one time to a number that is compatible with the available space and facilities and that can be subject to surveillance. In this connection a registrar may require appointments and may set reasonable limits on the time the record user spends in the records area;

(10) Enforce this chapter and ch. 69, Stats. by:

(a) Reporting suspected criminal activity to the appropriate law enforcement authorities; and

(b) Excluding offending record users from the records area for the periods of time indicated under s. HSS 142.07(3); and

(11) Be subject to the penalties of s. 69.24, Stats., for their own conduct which violates any provision of subch. I of ch. 69.

HSS 142.06 VOLUNTEERS. Registrars may use trained volunteers to assist record users, do surveillance of record users and maintain and improve the order and condition of records and indexes.

HSS 142.07 CONDITIONS FOR USERS. (1) CONDITIONS FOR ADMISSION TO THE RECORDS AREA. To be admitted to the records area, a person wanting to examine vital records:

(a) Shall register to examine and take notes from vital records by providing to the registrar or the clerk on duty in the registrar's office his or her name and address, and identification of the records to be searched such as by individual or family relationship;

(b) Shall present satisfactory proof of identity to the registrar or clerk on duty in the registrar's office;

(c) Shall read the conditions for examining and taking notes from vital records established under s.HSS 142.05(3) and this section and sign an agreement that he or she has read the conditions and agrees to abide by them;

(d) May not bring children under the age of 12 into the records area;

(e) May not bring food or beverages into the records area;

(f) May not bring a coat or a purse, briefcase, bag or other handcarried item into the records area; and

(g) May not bring a private copy machine or camera into the records area.

(2) CONDITIONS FOR REMAINING IN THE RECORD AREA. Within the records area, a person examining vital records:

(a) May not smoke;

(b) May not engage in loud talking, laughing or noisemaking;

(c) May examine paper records only as a last resort to find individually specified records, except for public indexes and any other compilations that do not contain confidential data;

(d) May examine only records requested under sub. (1)(a), or records subsequently identified to the registrar by an identifier such as individual or family relationship during the searching process;

(e) May not examine or try to examine:

1. Legally confidential records or confidential parts of records unless authorized by law to examine them; or

2. Paper records that are in poor condition, unless assisted by staff of the registrar's office;

(f) May use a pencil but not a pen;

(g) May not write on a record;

(h) May not alter, mutilate or destroy a record;

(i) May not knowingly ask staff of the registrar's office to perform tasks related to vital records that are prohibited by statute or rule;

(j) Shall turn over to staff of the registrar's office any public index or particular vital record that they need to use in the conduct of daily business; and

(k) Shall comply with any conditions posted under s. HSS 142.05(3) of the registrar's office that relate to handling vital records.

(3) CONSEQUENCES OF NOT MEETING CONDITIONS FOR ADMISSION. No person may be admitted to the records area unless he or she complies with all requirements under sub. (1)

(4) PENALTIES FOR VIOLATING CONDITIONS OF USE. (a) A record user who violates sub. (2)(a), (b), (c), (f), (g), (j) or (k) shall be given one oral warning to stop and, if the violation continues, shall be required to leave the records area for the day.

(b) A record user who violates sub. (2)(d) shall be given one oral warning not to use records that were not specified under sub (1)(a) and, if

the violation continues, shall be asked to leave the office for the day.

(c) A record user who violates sub. (2)(e) shall be required to leave the records area immediately and shall be barred from the records area for 2 months. A second violation within a 12 month period shall result in the user's exclusion from the records area for 6 months, and a third violation within the 12 month period shall result in exclusion for an additional 6 months and a notice of the violation sent to all registrars in the state.

(d) A record user who violates sub.(2)(h) or (i) shall be required to leave the records area immediately and not return for at least 6 months. A second violation within a 12 month period shall result in exclusion from the records area for one year, and each succeeding violation shall result in exclusion for an additional year. A notice of each violation shall be sent to all registrars in the state.

The 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: May 2, 1991

By: 

Gerald Whitburn
Secretary

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