

Chapter HFS 135

HUMAN CORPSES AND STILLBIRTHS

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Note: Chapter HSS 135 as it existed on January 31, 1993, was repealed and a new chapter HSS 135 was created effective February 1, 1993.

Note: Chapter HSS 135 was renumbered chapter HFS 135 under s. 13.93 (2m) (b) 1., Stats. and corrections made under s. 13.93 (2m) (b) 6 and 7, Stats.

HFS 135.01 Purpose and authority. This chapter and ch. HFS 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), 250.04 (7) and 157.01, Stats., to interpret and contribute to the implementation of ss. 69.01 to 69.12, 69.18, 250.04 (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. HFS 135.05 (1) (b), or from conducting the funeral of a deceased family member.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1995, No. 476.

HFS 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 family 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. HFS 136.02 (1).

(8) "Fetal death report" means the form prescribed and supplied by the department for reporting a stillbirth resulting from miscarriage, of gestational age 20 weeks or more or having a birthweight of 350 grams or more.

(9) "Final disposition" means, in reference to a human corpse or stillbirth, burial, entombment in a mausoleum or separate vault, cremation, delivery to a university or school under s. 157.02 (3), Stats., or delivery to a medical or dental school anatomy department under s. 157.06, Stats.

Note: For cremation after burial, entombment or donation, a cremation permit must be obtained under s. HFS 135.06 (3) (a).

(10) "Funeral director" means a person who is licensed under s. 445.04, Stats., to prepare human corpses for burial or other disposition, or to direct and supervise the burial or other disposition of human corpses.

(11) "Gestational age" means, in reference to stillbirths, the age of a fetus expressed in weeks, dating from the first day of the mother's last normal menses to the date of delivery.

(12) "Immediate family" means, in order of decisionmaking priority, spouse, adult children, parents, adult brothers and sisters, grandparents, and adult grandchildren of the decedent.

(13) "Interment" means, in reference to a human corpse, burial or entombment in a mausoleum or separate vault.

(14) "Local health officer" has the meaning prescribed in s. 250.01 (5), Stats.

(15) "Local registrar" means the county register of deeds or the city health officer in a city which has been approved by the state registrar under s. 69.04 (1), Stats., as a registration district.

(16) "Notice of removal" means the form prescribed and supplied by the department or reproduced from the form prescribed and supplied by the department for notifying and recording the removal of a human corpse from a hospital or nursing home by a funeral director, member of the immediate family or other authorized person.

(17) "Registered apprentice funeral director" means a person who is issued a certificate of apprenticeship under s. 445.095 (1), Stats., to be employed as an apprentice to a funeral director.

(18) "Release to cremate" means the form supplied by the county coroner or medical examiner which provides written permission required under s. 979.10 (1), Stats., for cremation of a human corpse and which contains information necessary to identify the deceased, the date and place of death, a description of the cause and manner of death, the name of the person requesting the cremation, the name of the funeral director or person acting in place of the funeral director and the date and time the release takes effect, and which specifies that no authorization is given to override the wishes of the next of kin.

(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: A copy of the universal precautions may be obtained from the Bureau of Occupational Health, Division of Public Health, P.O. Box 2659, Madison, WI 53703.

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

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93; correction in (14) made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1995, No. 476.

HFS 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.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

HFS 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 or the public authorities determine what disposition shall be made of the remains. The hospital or nursing home may cause a body to be removed that is unclaimed after 12 hours from the time of death and following due notice to the local health officer, unless a longer period of time is required to complete an autopsy.

Note: See s. 157.02, Stats., for disposition of the corpses of persons who have died at state, county or municipal institutions.

(2) DELAY FOR AUTOPSY. Except for cases which involve a coroner or medical examiner because a death has occurred under circumstances specified in s. 979.01, Stats., whenever the immediate family has requested or approved an autopsy, the funeral director or member of the immediate family or other person authorized to remove the body from the hospital shall delay making the removal for up to 10 hours after death, or for a longer period of time if the pathologist and funeral director mutually agree on a longer period of time, to permit completion of the autopsy.

(3) PRESENTATION OF REMOVAL NOTICE. The hospital or nursing home may not release a corpse to a funeral director, member of the immediate family or other person authorized to remove the body until the funeral director or other person making the removal presents a notice of removal, in duplicate, to the administrator of the hospital or nursing home or to his or her representative. The hospital or nursing home administrator or that person's representative shall complete, to the best of his or her knowledge, the portion of the notice which specifies if isolation techniques should be used in the embalming process and shall indicate whether the death is reportable to the coroner or medical examiner under s. 979.01, Stats. One copy of the removal notice shall be retained on file by the hospital or nursing home for a minimum of 30 days and the other shall be forwarded immediately by the hospital or nursing home to the local registrar in the registration district where death was pronounced. No presentation of a notice of removal is necessary for removal of a stillbirth unless a hospital requires that notice for internal recordkeeping purposes, in which case no copy of the notice is forwarded to the local registrar.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

HFS 135.05 Preparation and funeral. (1) PREPARATION FOR BURIAL OR FOR ENTOMBMENT. (a) In removing bodies and preparing them for burial or other disposition or for transportation, the funeral director and registered apprentice funeral director shall use universal precautions and otherwise exercise all reasonable precautions to minimize the risk of transmitting any reportable communicable disease from the corpse.

Note: Reportable communicable diseases are those listed in ch. HFS 145.

(b) Any member of the immediate family of a deceased person may prepare the body for burial or other final disposition, except that no person may embalm a corpse unless that person is licensed as a funeral director, and no member of the immediate family may prepare a corpse for burial or other final disposition if there is risk of transmitting a communicable disease from the corpse, either because a communicable disease was the cause of death or the individual had a communicable disease at the time of death, unless the local health officer determines that the risks of transmitting the disease from the corpse are minimal.

(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. HFS 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. HFS 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.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

HFS 135.06 Transportation and burial or other disposition.

(1) REPORT FOR FINAL DISPOSITION. (a) 1. Except for transportation under s. HFS 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 prior arrangements have been made with the receiving school or 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.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

HFS 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), 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.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93; correction in (2) made under s. 13.93 (2m) (b) 7., Stats.

HFS 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.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.

HFS 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.

History: Cr. Register, January, 1993, No. 445, eff. 2-1-93.