

HOUSE BILL 127

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9lr0693

By: **Delegates Pena-Melnyk, Benson, Costa, Howard, Hubbard, Kullen, Levi, Nathan-Pulliam, Reznik, Riley, Tarrant, V. Turner, Waldstreicher, and Weldon**

Introduced and read first time: January 23, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Death Certificate – Correction – Notice of Right to Appeal Denial**

3 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to include
4 with a copy of a death certificate a certain notice advising a person in interest of
5 the right to appeal a denial of a request to correct findings and conclusions as to
6 the cause and manner of death recorded on a death certificate; requiring the
7 Department to take a certain action at a certain time; and generally relating to
8 death certificates and notice of the right to appeal a denial of a request for
9 correction.

10 BY repealing and reenacting, without amendments,
11 Article – Health – General
12 Section 4–217(e) and 5–310(d)
13 Annotated Code of Maryland
14 (2005 Replacement Volume and 2008 Supplement)

15 BY adding to
16 Article – Health – General
17 Section 4–217(f)
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2008 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Health – General
22 Section 4–217(f)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2008 Supplement)

25 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Government
Section 10–611(e)(3)
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

4–217.

(e) The Secretary shall include with every copy of a death certificate, in a form prescribed and provided by the Insurance Commissioner, a notice which advises that certain individuals may be entitled to continuation of group health insurance benefits under § 15–407 of the Insurance Article.

(F) THE SECRETARY SHALL INCLUDE WITH EVERY COPY OF A DEATH CERTIFICATE A NOTICE THAT ADVISES A PERSON IN INTEREST, AS DEFINED IN § 10–611(E)(3) OF THE STATE GOVERNMENT ARTICLE, OF THE RIGHT TO APPEAL A DENIAL BY THE CHIEF MEDICAL EXAMINER OF A REQUEST TO CORRECT FINDINGS AND CONCLUSIONS AS TO THE CAUSE AND MANNER OF DEATH RECORDED ON A DEATH CERTIFICATE AS PROVIDED UNDER § 5–310(D) OF THIS ARTICLE.

[(f)] (G) A person may use a photocopy of a birth, death, fetal death, or marriage certificate for any nonfraudulent and nondeceptive purpose.

5–310.

(d) (1) The individual who performs the autopsy shall prepare detailed written findings during the progress of the autopsy. These findings and the conclusions drawn from them shall be filed in the office of the medical examiner for the county where the death occurred. The original copy of the findings and conclusions shall be filed in the office of the Chief Medical Examiner.

(2) (i) Except in a case of a finding of homicide, a person in interest as defined in § 10–611(e)(3) of the State Government Article may request the medical examiner to correct findings and conclusions on the cause and manner of death recorded on a certificate of death under § 10–625 of the State Government Article within 60 days after the medical examiner files those findings and conclusions.

(ii) If the Chief Medical Examiner denies the request of a person in interest to correct findings and conclusions on the cause of death, the person in interest may appeal the denial to the Secretary, who shall refer the matter to the Office of Administrative Hearings. A contested case hearing under this paragraph

1 shall be a hearing both on the denial and on the establishment of the findings and
2 conclusions on the cause of death.

3 (iii) The administrative law judge shall submit findings of fact to
4 the Secretary.

5 (iv) After reviewing the findings of the administrative law judge,
6 the Secretary, or the Secretary's designee, shall issue an order to:

7 1. Adopt the findings of the administrative law judge; or

8 2. Reject the findings of the administrative law judge,
9 and affirm the findings of the medical examiner.

10 (v) The appellant may appeal a rejection under subparagraph
11 (iv)2 to a circuit court of competent jurisdiction.

12 (vi) If the final decision of the Secretary, or of the Secretary's
13 designee, or of a court of competent jurisdiction on appeal, establishes a different
14 finding or conclusion on the cause or manner of death of a deceased than that recorded
15 on the certificate of death, the medical examiner shall amend the certificate to reflect
16 the different finding or conclusion under §§ 4-212 and 4-214 of this article and §
17 10-625 of the State Government Article.

18 (vii) The final decision of the Secretary, or the Secretary's
19 designee, or of a court under this paragraph may not give rise to any presumption
20 concerning the application of any provision of or the resolution of any claim concerning
21 a policy of insurance relating to the deceased.

22 (viii) If the findings of the medical examiner are upheld by the
23 Secretary, the appellant is responsible for the costs of the contested case hearing.
24 Otherwise, the Department is responsible for the costs of the hearing.

25 Article – State Government

26 10-611.

27 (e) “Person in interest” means:

28 (3) as to requests for correction of certificates of death under §
29 5-310(d)(2) of Health – General Article, the spouse, adult child, parent, adult sibling,
30 grandparent, or guardian of the person of the deceased at the time of the deceased's
31 death.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
33 Health and Mental Hygiene shall phase in the requirement under this Act, consistent
34 with the establishment of an electronic death certificate system, so that the notice

1 required under Section 1 of this Act is provided with the implementation of the
2 electronic death certificate system.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2009.