

HOUSE BILL 127

J1

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 18, 2009

CHAPTER _____

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 certain death certificate~~ a certain notice advising a
5 person in interest of the right to appeal a denial of a request to correct findings
6 and conclusions as to the cause and manner of death recorded on a death
7 certificate; requiring the Department to take a certain action at a certain time;
8 and generally relating to death certificates and notice of the right to appeal a
9 denial of a request for 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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 4–217(f)
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2008 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – State Government
6 Section 10–611(e)(3)
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2008 Supplement)

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

11 **Article – Health – General**

12 4–217.

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

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

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

26 5–310.

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

32 (2) (i) Except in a case of a finding of homicide, a person in interest
33 as defined in § 10–611(e)(3) of the State Government Article may request the medical
34 examiner to correct findings and conclusions on the cause and manner of death
35 recorded on a certificate of death under § 10–625 of the State Government Article
36 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 shall be a hearing both on the denial and on the establishment of the findings and conclusions on the cause of death.

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

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

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

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

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

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

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

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

Article – State Government

10-611.

(e) “Person in interest” means:

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
2 Health and Mental Hygiene shall phase in the requirement under this Act, consistent
3 with the establishment of an electronic death certificate system, so that the notice
4 required under Section 1 of this Act is provided with the implementation of the
5 electronic death certificate system.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.