

### Purpose

The purpose of this handbook is to acquaint persons responsible for the registration of fetal deaths with the vital registration system in Texas and to provide instructions for completing and filing fetal death certificates.

A fetal death certificate is a permanent legal record of the fact of death. Because the information contained within the record is considered to be prima facie evidence of the fact of death, it may be introduced in court as evidence when a question about the death arises.

Further, the fetal death certificate is needed for a variety of medical and health-related research efforts. The information on the fetal death certificate is used to study the causes of adverse pregnancy outcomes and these data are essential in planning and evaluating prenatal care services and obstetric programs. These data are also used to examine the consequences to the fetus of possible environmental and occupational exposures of the parents.

Because the information derived from fetal death certificates can be no more accurate than the data on the certificate, it is very important that all persons concerned with the registration of fetal deaths strive not only for complete registration but also for accuracy and promptness in reporting these events.

### Registration Requirements

For every fetal death weighing 350 grams or more, or if the weight is unknown, a fetus aged 20 weeks or more as calculated from the start date of the last normal menstrual period to the date of delivery, a Certificate of Fetal Death (Form VS-113) must be filed within five (5) days of the death with the local registrar of the district in which the fetal death occurred or the fetus was found. [25 TAC §181.7] Instructions for completing the Certificate of Fetal Death are found in Chapter 2 of this handbook.

Registration of a fetal death is not required in Texas if the weight is under 350 grams or if the weight is unknown, the period of gestation is less than 20 completed weeks. The weight of the fetus or, if the weight is unknown, length of gestation is determined by the physician, medical examiner or justice of the peace, as the case may be. When a pregnant woman dies a fetal death certificate is required only if the fetus is removed from the mother's body and the fetus weighs 350 grams or more, or if the weight is unknown, a period of gestation of 20 completed weeks or more at the time of the mother's death.

A Report of Death (Form VS-115) must also be filed with the local registrar within 24 hours of taking custody of a fetus by the funeral director or other person acting as such who first assumes custody of the fetus. [25 TAC §181.2(a)] Instructions for completing the Report of Death form are found in Chapter 3 of this handbook.

## **Fetal Death Vs. Infant Death**

In order to understand when to file a Certificate of Fetal Death, it is important to recognize the difference between a fetal death, a live birth, and an infant death. A fetal death is a death that occurred before labor or during labor or delivery. An infant death is a death that occurred after delivery, up to one year of age.

A Certificate of Fetal Death is filed when a delivery weighing 350 grams or more, or if the weight is unknown, a fetus aged 20 weeks or more as calculated from the start date of the last normal menstrual period to the date of delivery results in a fetus that shows no evidence of life. The fetal death is indicated by the fact that after complete expulsion or extraction from the mother, 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 voluntary muscles, regardless of whether the umbilical cord has been cut or the placenta is attached. [25 TAC §181.1 (11)]

If there are any signs of life after delivery (breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles), whether or not the umbilical cord has been cut or the placenta is attached, this event is a live birth. [25 TAC §181.1(18)] A Certificate of Birth must be filed, even if the infant lives for only a very short period of time, regardless of the weight or length of gestation or the infant's chances of survival. If the infant dies after delivery, a standard death certificate must also be filed.

## **Fetus or Infant Found Dead**

When an abandoned infant or fetus is found dead, a question may arise as to whether the event should be registered as a fetal death, or as a live birth followed by an infant death. The case must be referred to the medical examiner or justice of the peace for investigation and certification because the body was found abandoned. If the medical examiner or justice of the peace believes that the infant died prior to delivery, and the weight of the fetus is at least 350 grams or more, then the death must be registered using the Certificate of Fetal Death.

If the medical examiner or justice of the peace believes that the infant lived after delivery, even if only for a short time, then the death should be registered using the standard Certificate of Death, regardless of the weight. The medical examiner or justice of the peace must also ensure that the birth of the infant is registered using the Certificate of Birth. The fetal death certificate or death certificate must be filed with the local registrar in the registration district in which the fetus or infant was found.

## Who Must File a Fetal Death Certificate

The fetal death certificate must be filed by the person in charge of interment or disposition of the body, or by the person in charge of removal of the body from the registration district for disposition. [HSC §193.002] If arrangements for disposition of the fetus are made through a funeral home, the funeral director should complete the fetal death certificate, with input from the institution where the delivery occurred and the attending physician. If the fetus has been surrendered to the hospital or birthing center for disposition, the institution is solely responsible for completing and filing the Certificate of Fetal Death.

The person responsible for filing the fetal death certificate must obtain the required information from the person or source best qualified to provide the information. Fetal death registration therefore requires the cooperative efforts of the funeral director or other person accepting responsibility for disposition of the fetus; the physician who provided care for the mother; the facility in which the delivery occurred; and the certifier of the cause of fetal death, who may be the physician who attended the delivery, or the medical examiner or justice of the peace, according to the circumstances of the fetal death.

Generally, the physician who attended the delivery completes the cause of fetal death. The medical examiner or justice of the peace must determine the cause of fetal death if:

- the fetus was found abandoned and the cause and circumstances of the death are unknown;
- the fetal death is believed to have been due to an accident, suicide, or homicide;
- the fetal death occurred in prison or in jail;
- the fetal death occurred without having been attended by a physician;
- the physician is unable or unwilling to certify the cause of fetal death; or
- the circumstances of the fetal death are otherwise properly referable for inquest [HSC §193.005, CCP Art. 49.04, CCP Art. 49.25 Sec.6].

A midwife or certified nurse-midwife may be listed as an attendant on the fetal death certificate; however they may **not** be listed as the certifier. Only a physician, medical examiner, or justice of the peace may be listed as the certifier on a fetal death certificate. In some cases the county judge may certify the delivery and when the justice of the peace is not available to conduct an inquest. The county judge should be notified only in cases that require an inquest. [CCP Art. 49.07(C)]

## Certificate of Birth Resulting in Still Birth

If a fetal death certificate is to be filed, the person required to file the fetal death certificate must advise the parent(s) that they may, but are not required to, request the preparation of a Certificate of Birth Resulting in Stillbirth. This commemorative certificate may be obtained by contacting the State Vital Statistics Unit. The person required to file the fetal death certificate will advise the parent(s) of how to obtain this certificate [HSC §192.0022]. To request a commemorative certificate, the parent(s) should complete an Application for Certificate of Birth Resulting in Stillbirth (Form VS-301).

# Duties of the Funeral Director or Other Person Accepting Responsibility for Disposition of the Fetus

Duties of the person accepting responsibility for disposition of the fetus include:

- File a Report of Death with the local registrar within 24 hours of taking custody of the fetus.
- Complete, or have completed, all items on the fetal death certificate, obtaining the required information from the person best qualified to furnish the information.
- Give the parent(s) the information on the Certificate of Birth Resulting in Stillbirth.
- Notify the medical examiner or coroner for investigation and cause of death certification, if any of the following circumstances exist [HSC §193.005, CCP Art. 49.04, CCP Art. 49.25 Sec.6]:
  1. the fetus was found abandoned and the cause and circumstances of the death are unknown,
  2. the fetal death is believed to have been due to an accident, suicide, or homicide,
  3. the fetal death occurred in prison or in jail,
  4. the fetal death occurred without having been attended by a physician,
  5. the physician is unable or unwilling to certify the cause of fetal death, or
  6. the circumstances of the fetal death are otherwise properly referable for inquest
- Cooperate with pathologists in cases involving autopsies.
- Secure the signature and the cause of fetal death information from the physician who attended the delivery, or the medical examiner or the coroner, as appropriate based upon the circumstances of the fetal death.
- Review the certificate for completeness and accuracy.
- File the fetal death certificate with the local registrar within five (5) days of death.
- Obtain and use all necessary permits and other forms associated with the fetal death registration process (e.g., Burial-Transit Permit, Disinterment Permit).
- Cooperate with the State Vital Statistics Office and local registrars concerning queries on certificate entries.
- Call on the local registrar or the State Vital Statistics Office for advice and assistance when necessary.

## Responsibilities of The Hospital or Other Delivering Institution

If the fetus has been surrendered to the hospital for disposition, without the assistance of a funeral director, the delivering institution is solely responsible for completing the items on the fetal death certificate and filing the certificate with the local registrar within five (5) days of the fetal death. The facility will be responsible for all actions listed above in the section entitled "Duties of the funeral director or other person accepting responsibility for disposition of the fetus".

If arrangements for disposition of the fetus are being made through a funeral director, the principal responsibility of the delivering institution is to promptly provide health-related information for the fetal death certificate, as needed, to the medical certifier to be able to

complete the cause of death information, so that the funeral director can file the certificate with the local registrar within five (5) days of the fetal death.

Information the facility should provide includes, but is not limited to:

- delivery date, sex, and place of delivery
- information regarding the attendant and the signature of the medical certifier
- (items 17a-18b)
- health and medical information pertaining to the mother and fetus (items 34-53 on the back of the fetal death certificate)

## **Confidentiality**

Funeral directors or persons acting as such and certifiers of fetal death are assured that extensive legal and administrative measures are used to protect individuals and establishments from unauthorized disclosure of personal information.

The section entitled “For Medical and Health Use Only” on the back of the fetal death certificate (items 34-53) is confidential and not considered open records for the purpose of the open records law. That information may not be released or made public on subpoena or otherwise, except that release may be made for statistical purpose only, so that no person, patient, or facility is identified. [HSC §192.002]

## **Penalties**

It is a Class A misdemeanor if a person knowingly reveals or induces another to reveal confidential information from a death or fetal death certificate. It is a Class C misdemeanor if a person refuses or fails to furnish correctly any information in the person’s possession affecting a certificate. It is also a Class C misdemeanor if a person fails, neglects, or refuses to fill out and file a death or fetal death certificate with the local registrar or deliver the certificate upon request to the person with the duty to file it. It is a third degree felony to falsely obtain, use, or alter another person’s certificate of death or fetal death with a fine of up to \$10,000 and 2-10 years in prison. [HSC §195]