

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 105. VITAL STATISTICS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Death Registration
310:105-5-4 [AMENDED]

SUMMARY:

The proposed rule would provide amendment authority of the medical portion of a death certificate for those who are authorized by statute to complete and sign the medical certification. The purpose of the rule change is to align and comply with HB 2009 which became effective November 1, 2021 and with SB1322 which became effective and November 1, 2022. HB2009 authorized attending Advanced Practice Registered Nurses to complete and sign death certificates. SB1322 authorized attending Physician Assistants for the same. The proposed amendment adds these two groups as authorized to amend the medical portion of any death certificate they certified.

AUTHORITY:

Commissioner of Health; Title 63 O.S. § 1-104, Title 63 O.S. § 1-304.

COMMENT PERIOD:

November 15, 2022 through the close of the Department's normal business hours, 5 PM, on December 15, 2022. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on December 15, 2022 submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on December 15, 2022 at the Oklahoma State Department of Health Auditorium, 123 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102 from 9:30 AM to 12:30 PM. The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of an office closure due to inclement weather is December 19, 2022 in the Auditorium, from 9:30 AM to 12:30 PM. Those wishing to present oral comments should be present at that time to register to speak. The hearing will close at the conclusion of those registering to speak. Interested persons may attend for the purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and summarized in this Notice. Validated parking will be provided for the parking lot located at the east corner of Broadway and Robert S. Kerr Avenue, subject to availability.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through December 15, 2022, to the contact person identified below.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from the contact person identified below or via the agency website at www.ok.gov/health.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at www.ok.gov/health.

CONTACT PERSON:

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail AudreyT@health.ok.gov.

INITIAL RULE IMPACT STATEMENT

(This document may be revised based on comment received during the public comment period.)

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1. DESCRIPTION:

HB 2009 was passed and became effective Nov 1, 2021. SB1322 was passed and became effective on November 1, 2022. These bills together authorized attending Advanced Practice Registered Nurses and Physician Assistants to complete and sign death certificates. This amendment authorizes these two groups to amend the medical portion of a death certificate they certified.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:

Advanced Practice Registered Nurses and Physician Assistants require the ability to correct errors on death records they have certified. There is no cost to provide these new groups the ability to amend a death record. There is minimal to no impact of cost.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:

Benefits include the ability to correct errors providing emotional and administrative relief for families. If attending Advanced Practice Registered Nurses and Physician Assistants are not able to amend the records they certify, it is unclear who would have the authority to correct typographical errors or corrections of fact based on new information. These are the attending health care providers allowed by statutes to complete the certification and who have the information necessary to assure the integrity of the record. If those records are required to be sent to the medical examiner it will delay the process, but it is unclear since these are not unattended deaths whether the medical examiner would have the authority to amend.

4. ECONOMIC IMPACT, COST OF COMPLIANCE, AND FEE CHANGES:

There is no cost to provide them system access to modify records or any change to the amendment fee or any expectation that the number of amendments would increase. This simply adds an additional group who is authorized to amend the medical section of a death certificate.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:

There will be administrative benefits by allowing authorized providers to amend records they have certified and reducing the need for intervention by staff.

6. IMPACT ON POLITICAL SUBDIVISIONS:

There will be no impact on political subdivisions.

7. ADVERSE EFFECT ON SMALL BUSINESS:

There will be no impact on small businesses.

8. EFFORTS TO MINIMIZE COSTS OF THE RULE:

There are no less costly means currently identified.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:

There will an increased timeliness of amendments increasing the integrity of the information upon which financial and administrative decisions are based.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:

Deaths for those who are attended by Advanced Practice Registered Nurses and Physician Assistants will be less accurate as they would be unable to correct omissions or errors. Physicians and medical examiners are able to amend the records they file. Financial and policy decisions would be impacted by the bias that would come from records of deaths which cannot be corrected.

11. PREPARATION AND MODIFICATION DATES:

This rule impact statement was prepared on June 27, 2022.

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SUBCHAPTER 5. DEATH REGISTRATION

310:105-5-4. Amendments of death registrations

- (a) **Causes of death.** The cause of death or any other medical portion of the death certificate may be amended only upon the application of the medical examiner or the ~~attending certifying~~ physician, advanced practice registered nurse or physician assistant as authorized by Title 63 O. S. § 1-317.
- (b) **Minor corrections.** Minor corrections to a death certificate shall be made only upon the application of the funeral home which must attest that the corrections are being made based on mistake made by the funeral home.
- (c) **Other corrections.** Any applicant that desires to make a change, alteration or amendment not provided for in paragraphs (a) through (b) of this section may file a petition with the Administrative Hearing Clerk pursuant to OAC 310:2 and seek a final decision by an Administrative Law Judge granting the relief requested. The applicant shall bear the burden of proof, by clear and convincing evidence that the proposed change, alteration or amendment sought by the Applicant corrects an error or misstatement of fact as to any information supplied to the State Registrar by the funeral home.