

DEATH CERTIFICATE: By whom to be signed.

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E. T. McCaugh, M. D.,  
State Health Commissioner,  
Jefferson City, Missouri.

Dear Sir:

We acknowledge receipt of your letter of July 10, 1934 asking for an opinion on certain questions raised in a letter from Thomas Chamberlain, Deputy Registrar of Vital Statistics, of St. Louis, Missouri, Mr. Chamberlain's letter being in the following terms:

"We should be very glad if you could secure for us an opinion as to what constitutes a coroner's case. Our understanding, on study of the 'Missouri Statutes', is that the coroner should sign only such death certificates as stated in Section 9047: 'If the circumstances of the case render it probable that the death was caused by unlawful or suspicious means'; followed by, 'where there was an attending physician, medical certificate must be signed by him.'"

At present the coroner in St. Louis signs certificates for the following:

All deaths resulting from accident or injury, including deaths from burns and accidental poisonings, even if such deaths take place as long as a year after the date of the accident and regardless of whether or not there was a physician in attendance.

All deaths of patients who have been in hospital less than twenty-four hours, regardless of care by hospital physicians during that time.

Also when deaths occur in a private home and the dead person is taken to the hospital where he is pronounced dead, the coroner writes in the hospital as the place of death rather than the home address where the death actually occurred. This procedure is often followed in the case of stillbirths which occur in a home; if the mother and dead child are taken immediately to a hospital, the coroner writes in "Enroute to hospital" rather than the home as the place of death of the stillborn child."

We feel that a physician, called in on a case, should always sign a death certificate, regardless of the length (or brevity) of time in attendance, except in cases of suspected unlawful or suspicious means; and that the death certificate should show the actual place of death, not the place where the death was pronounced.

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It is our opinion that this office may be placed in a very embarrassing position unless we can learn the correct and lawful procedure and take steps to enforce it."

The questions raised in such request seem reducible to the following: I. What certificates of death are to be signed by the attending physician. II. What certificates of death are to be signed by the Coroner. III. Whether such certificate should show the place of death or the place of the pronouncement of death.

I.

CERTIFICATES OF DEATH TO BE SIGNED BY ATTENDING  
PHYSICIAN.

Revised Statutes Missouri 1929, Section 9046, after providing for the items to be included in the certificate of death, provides as follows:

"The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased."

and the same section, after providing that such physician shall state the various specified facts in such certificate continues:

"Causes of death, which may be the result of either disease or violence, shall be carefully defined; and if from violence, its nature shall be stated, and whether (probably) accidental, suicidal, or homicidal."

The provisions above quoted show that wherever a physician has been in attendance, even where death was caused in such a manner as to justify or require a Coroner's inquest, such physician shall sign the certificate.

II.

CERTIFICATES TO BE SIGNED BY CORONER.

Revised Statutes Missouri 1929, Section 9047, defines the deaths in connection with which it is the duty of the Coroner to sign a certificate. Such section provides as follows:

"Sec. 9047. Undertaker to notify registrar, when - coroner called in, when - coroner's duties.--In case of any death occurring without medical attendance, it shall be the duty of the undertaker to notify the registrar of such death, and when so notified, the registrar shall inform the local health officer and refer the case to him for immediate investigation and certification, prior to issuing the permit: PROVIDED, that when the local health officer is not a qualified physician, or when there is no such official, and in such cases only, the registrar is authorized to make the certificate and return from the statement of relatives or other persons having adequate knowledge of

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the facts: PROVIDED, FURTHER, that if the circumstances of the death render it probable that the death was caused by unlawful or suspicious means, the registrar shall then refer the case to the coroner for his investigation and certification. And any coroner whose duty it is to hold an inquest on the body of any deceased person, and to make the certificate of death required for a burial permit, shall state in his certificate the name of the disease causing death, or the means of death; causes or violence, and whether (probably) accidental, suicidal, or homicidal, as determined by the inquest; and shall, in either case, furnish such information as may be required by the state registrar properly to classify the death."

An examination of this statute shows that for a case to warrant certification of the cause of death by a Coroner for purposes of registration two conditions must exist: (1) absence of medical attendance; (2) a probability that the death was caused by unlawful or suspicious means. The last part of Section 9046 in its juxtaposition with Section 9047 shows that the former was to cover certificates where a physician had been in attendance and the latter to cover cases where a physician is not in attendance, the two being mutually exclusive and designed to cover these two possible types of situations. Attention is called to the first phrase of Section 9047 which provides "in case of any death occurring without medical attendance" upon which phrase depends the rest of such section.

The statement above that the last part of Section 9046 and the whole of Section 9047 are mutually exclusive might seem superficially to be open to attack on the ground that deaths by violence are required by Section 9046 to be certified by the attending physician, and such deaths are by Section 9047 likewise required to be certified by the Coroner. However, it would seem that two different types of certificates are contemplated in such cases, the certification to be made by the Coroner being a certificate of the finding of the Coroner's jury and not the medical certificate of death, so that it is our conclusion that the certificate of death in the form provided for in Section 9046 is never to be signed by the Coroner when the signature of the attending physician is available.

The only situation which has been found in the statutes in which the Coroner is authorized to sign a certificate of death other than cases where death occurs by violence or a casualty and there is no physician in attendance is covered by Revised Statutes Missouri 1929, Section 11634, which provides that in cases where a certificate of the cause of death is necessary for the burial of the body of any person, the Coroner shall make such certificate if requested by relatives or friends of the deceased to do so, in which event the person making such request shall pay all costs, fees and expenses of the inquest and certificate.

The conclusions set out above are confirmed by the adjudicated cases. In O'Donnell v. Wells, 323 Mo. 1170, 21 S. W.<sup>2d</sup> 762 (1929) the admissibility in evidence of a certificate of death was questioned on the ground that such cer-

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tificate had not been certified by the proper person, having been signed by the Coroner and the court was led to a rather thorough consideration of the proper form and signature for such certificate. The court reversed a judgment for the plaintiff on the ground that the certificate received in evidence was not properly admissible as not having been signed by the proper person under the statutes. The court in the course of its opinion said:

"Defendant insists the medical certificate must be made and signed by the attending physician. Plaintiff thinks the coroner was authorized by section 5803, Rev. St. 1919, to make and sign said part of the certificate of death. Said section does authorize the coroner to make the medical certificate when the case is referred to him by the registrar as a case without an attending physician and a case where death may have been caused by unlawful and suspicious means. When the coroner is so authorized, he must make the certificate as directed in said section. This duty is incidental to the duties of a coroner under chapter 48 (sections 5916-5957) Rev. St. 1919, which provides for taking inquests of violent and casual deaths. This chapter directs the coroner to perform no duty in aid of the registration of births and deaths.

Defendant's contention must be sustained. It is clear the lawmakers had in mind the best information obtainable, for they provided in section 5802, Rev. St. 1919, that the medical certificate of the death certificate must be made and signed by the attending physician. They not only commanded the attending physician to make and sign the medical certificate but provided he would be guilty of a misdemeanor if he failed or refused to do so. Section 5817, Rev. St. 1919. In cases calling for an inquest it would be the duty of the attending physician to notify the coroner. It would then be the duty of the coroner to hold an inquest under chapter 48 (sections 5916-5957) Rev. St. 1919. But the holding of an inquest does not authorize the coroner to make and sign the medical certificate unless the case was referred to him by the registrar as provided in section 5803. If there is an attending physician, the medical certificate must be made and signed by him. In the case at bar, there was an attending physician, and he did not make and sign the medical certificate. It was made and signed by the deputy coroner who was not an attending physician. Therefore it was not made in substantial compliance with the statute and should not have been admitted in evidence." (21 S. W. 765)

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## III.

PLACE OF DEATH TO BE STATED

Revised Statutes of Missouri 1929, Section 9046, provides that the certificate of death shall contain, among other things "place of death". A statement in the certificate of the place where the deceased was pronounced dead, omitting the place of death if such was known, would not, in our opinion, be a compliance with this provision of the statute.

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CONCLUSION.

It is our opinion that certificates of death are to be signed by the physician in attendance, if any, regardless of the length of time of the attendance or the cause of death, and that where the signature of such physician is available, the Coroner has no authority to sign such certificate and, further, it is our opinion that the certificate of death must state the place of death and not the place of the pronouncement of death.

Yours very truly,

EDWARD H. MILLER

ASSISTANT ATTORNEY GENERAL.

APPROVED:

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ATTORNEY GENERAL.