

INQUESTS - CORONERS - Cases in which to be held - Necessity
of reference by physician.

11-16

November 15, 1935.

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

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Dear Sir:

A request for an opinion has been received from you under date of October 24, 1935, such request being in the following terms:

"Under the date of July 27, 1934 you furnished to Dr. E. T. McCaugh, state health commissioner, an opinion relative to 'coroner's cases'. I should like at this time a supplementary opinion in regard to coroner's cases.

If a death certificate is signed by the attending physician under the conditions outlined in the opinion on July 27, 1934, are there any conditions under which a coroner can compel an inquest?

What deaths are to be referred to the coroner for an inquest by an attending physician who is qualified to sign a death certificate?

On what deaths does a coroner hold an inquest?"

I

CASES FOR CORONER'S INQUEST WHERE
ATTENDING PHYSICIAN SIGNS DEATH CERTIFICATE

R. S. Missouri, 1929, Section 11508, provides in part as follows:

"A coroner shall be a conservator of the peace throughout his county, and shall take inquests of violent and casual deaths happening in the same, or where the body of any person coming to his death shall be discovered in his county."

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The phrase "casual deaths" in such section apparently means "death by * * casualty", for the latter phrase is used in R. S. Mo., 1929, Section 11612.

It will be observed that Section 11608 does not make, and none of the sections in the chapter in which such section is found, namely Chapter 76, entitled "Inquests and Coroners", makes the holding of inquests by coroners dependent upon whether a physician was in attendance on the deceased or not. Our previous opinion, dated July 27, 1934, related primarily to the statutes relating to the signing of certificates of death. In that opinion we advised you that Sections 9046 and 9047 of R. S. Mo., 1929, relating to certificates of death in cases where there is and cases where there is not an attending physician, respectively, applied to mutually exclusive situations, and we cited to you the case of O'Donnell v. Wells, 323 Mo. 1170, 21 S.W. (2d) 762 (1929). It might appear on the face of these two statutes and in the light of our opinion and this decision by the Supreme Court of Missouri that no inquests are to be held under the statute in cases where an attending physician sign the certificate of death, because only in Section 9047, providing for cases in which an attending physician does not sign the certificate of death, is there any provision for reference of cases to coroners. However, as quoted in our opinion of July 27, 1934, the case of O'Donnell v. Wells contains the following statement:

"In cases calling for an inquest it would be the duty of the attending physician to notify the coroner." (21 S.W. (2d) 765)

Furthermore the Court in that case says that the duty of a coroner to sign a certificate of death, in cases in which his signing such a certificate is required by statute, "is incidental to the duties of a coroner under Chapter 43 (Sections 5916, 5957) Rev. St. 1919, which provides for taking inquests of violent and casual deaths." (21 S.W. (2d) 765). Therefore, even though the statutes provide no machinery for the referring to a coroner of a case in which an attending physician signs the certificate of death, nevertheless Section 11608, which defines the duties of coroners in holding inquests, contains no qualification, saying that inquests shall only be held where no physician was in attendance, and in our opinion, coroners should hold inquests in connection with the deaths described

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in Section 11608, whether a physician signs the certificate of death or not.

II

DUTY OF PHYSICIAN SIGNING CERTIFICATE OF DEATH TO REPORT CERTAIN DEATHS TO CORONER

In the light of the foregoing, in answer to your second question, although no statute requires the physician signing the certificate of death to refer this matter to the coroner, in view of the language of the Supreme Court of Missouri above quoted from the case of O'Donnell v. Wells, we believe that physicians signing certificates of death, in which the death falls within one of the classifications of Section 11608, should refer each such case to the coroner.

III

CASES FOR CORONERS' INQUESTS GENERALLY

The answer to your third question is contained in our answer to your first question, set out under I above. However, we call your attention to R. S. Missouri, 1929, Section 11634, which provides in part as follows:

"Whenever any known person shall have died from any cause other than violence or casualty, and a certificate of the cause of death is necessary for the burial of the body of such person, the coroner shall, at the request of the relatives or friends of such person, hold a view or inquest on the body, and the person making such request shall pay all costs, fees and expenses of such inquest or view."

This section relates to a special situation, is inapplicable to deaths from violence or casualty, and also to cases in which an attending physician has signed a proper certificate of death.

In conclusion, it is our opinion that a coroner can, and is under duty to, hold an inquest whenever such coroner has reasonable cause to believe, and does believe, that a death has been caused by violent or casual means, or where the body of any person coming to his death shall be discovered in his county, and also in cases where a certificate of death is necessary and

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is requested under the provisions of R.S. Missouri, 1929, Section 11634; it is our further opinion that physicians signing certificates of death should report to the coroner all such cases in which the death has in their opinion been due to violence or casualty.

Very truly yours,

Edward W. Miller
Assistant Attorney General

Approved:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General