

CHIROPRACTORS: May certify to death certificates

HB #65

3-17

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E. T. McGaugh, M. D.
State Health Commissioner
State Board of Health
Jefferson City, Missouri

Dear Dr. McGaugh:

This will acknowledge receipt of your letter requesting an opinion from this office, which reads as follows:

"I hereby request that you render us an opinion as to whether or not a chiropractor can legally sign a medical certificate of death. Especially would we like to have your interpretation of Section 6, page 135, Session Laws of Missouri 1927.

"Chiropractors, of course, are not examined or licensed by the State Board of Health. Neither does the chiropractor have the right to prescribe.

"In view of the fact that the death certificate contains a medical certificate of death we feel that the chiropractor cannot legally sign a death certificate."

Section 9046, Revised Statutes Missouri 1929, provides, in part:

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

who shall specify the time in attendance, the time he last saw the deceased alive and the hour of the day at which the death occurred. And he shall further state the cause of death, so as to show the course of disease or sequence of causes resulting in the death, giving the primary cause, and also contributory causes, if any, and the duration of each. Indefinite and unsatisfactory terms, indicating only symptoms of disease or conditions resulting from disease, will not be held sufficient for issuing a burial or removal permit; and any certificate containing only such terms as defined by the state registrar shall be returned to the physician for correction and definition. 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. And in case of deaths in hospitals, institutions, or away from home, the physician shall furnish the information required under this head (item 19), and shall state where, in his opinion, the disease was contracted."

The above section provides that the medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased. Section 9047, Revised Statutes Missouri 1929, provides that 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. The section further provides that when the local health officer is not a

qualified physician, or when there is no such official, in such cases only, the registrar is authorized to make the certificate. It is provided further that if the circumstances of the case 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.

From the above it is plain that a death certificate is not always required to be signed by a physician, for instance, when there is no physician in attendance at the time of death, and, when there is no local health official who was a qualified physician, the registrar is authorized to make this certificate. If the registrar refer the case to the coroner for his investigation the coroner makes the certification. The local registrar or coroner need not be, and, in many cases, would not be, a licensed physician.

Section 13551, Revised Statutes Missouri 1929, reads as follows:

"Chiropractic practitioners shall be subject to the state and municipal regulations relating to the control of contagious diseases, the reporting and certifying of deaths, and all matters pertaining to public health, and such reports shall be accepted by the officer or department to whom such report is made."

The above section was first enacted March 14, 1927. Section 9046, supra, was enacted in 1909. The Legislature, when they enacted Section 13551, must have had in mind the provisions of Section 9046.

In the case of State v. Brown 68 S. W. (2d), page 59, the Court said:

"It will be observed that section 4556, except the last proviso which is not pertinent to the matter here in controversy, relates to corporations in general, while section 5613 relates only to a particular class of corporations, to wit, building and

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loan associations. In such case the rule applicable is that 'where there is one statute dealing with a subject in general and comprehensive terms and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between them, the special will prevail over the general statute. Where the special statute is later, it will be regarded as an exception to, or qualification of, the prior general one; and where the general act is later, the special will be construed as remaining an exception to its terms, unless it is repealed in express words or by necessary implication.' Tevis, et al. v. Foley, 325 Mo. 1050, 1054, 30 S. W. (2d) 68, 69; State ex rel. Buchanan County v. Fulks, 296 Mo. 614, 626, 247 S. W. 129; State ex inf. Barrett v. Imhoff, 291 Mo. 603, 617, 238 S.W. 122. If there be any repugnancy between these two statutes, the general statute, section 4556, must yield to the special statute, section 5613."

In view of the above, it is the opinion of this department that Section 13551, which relates specifically to chiropractors, constitutes an exception to Section 9046, it having been enacted at a later date prevails as to chiropractors and gives them the right to report and certify to deaths and requires their report and certification to be accepted by the registrar.

Yours very truly,

J. E. TAYLOR
Assistant Attorney General

APPROVED:

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

JET:LC