



KAREN L. SMITH, MD, MPH
Director and State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

June 11, 2015

15-07

TO: LOCAL REGISTRARS OF BIRTHS AND DEATHS
CHIEF DEPUTY REGISTRARS OF BIRTHS AND DEATHS
COUNTY CORONERS/MEDICAL EXAMINERS

SUBJECT: **AB-1577 GENDER IDENTITY ON DEATH CERTIFICATES**

Background Historically, the reported sex of a decedent on the death certificate has been determined by the medical certifier or coroner, and attested to as part of the decedent's medical information.

In cases when a decedent's transgender identification differed from that indicated at birth or when a decedent's physical characteristics did not correlate with the decedent's self-identified gender, medical certifiers and coroners have been challenged in determining the appropriate sex to enter on a death record. According to the American Civil Liberties Union (ACLU), only a small percentage of self-identified transgender individuals undergo gender reassignment surgery, making it difficult to determine gender based on physical characteristics.

Statutory Change Assembly Bill 1577 (2014, Atkins) was chaptered into law in October 2014. The bill amends California Health and Safety Code (HSC) Section 102875, by adding language that specifies how the decedent's sex reported on the death certificate will be determined. Effective July 1, 2015, the HSC Section 102875 (B-E) specifies:

The person completing the death certificate shall record the decedent's sex (item 6) to reflect the decedent's gender identity reported by the informant, UNLESS:

1. Presented with documentation of decedent's gender such as a birth certificate, driver's license, a social security record, a court order approving a name and/or gender change, a passport, an advanced health care directive, or proof of clinical treatment for gender transition. If documentation is presented, the decedent's

REPORTING DECEDENT "SEX" ON DEATH CERTIFICATES

Page 2

sex shall be reported to reflect the gender identity indicated in that document.

2. If the person(s) with the right to control disposition, pursuant to HSC Section 7100, *disagrees* with the gender identity reported by the informant, and no documentation of gender transition are presented:
 - the sex of the decedent shall be recorded as the gender identity reported by the person(s) with the right to control disposition under HSC Section 7100.
3. If a majority of persons with equal rights under HSC Section 7100 disagree with the gender identity reported by the informant, and are not in agreement with each other, and no documentation of gender transition are presented:
 - any one of the persons with equal rights under HSC Section 7100 may file a petition in the superior court to determine the person who shall report the gender identity to be recorded on the death certificate.
4. The person completing the death certificate in compliance with this provision is not liable for any damages or costs arising from claims related to the decedent's sex reported on the death certificate.
5. The person completing the death certificate must comply with HSC Section 102800, using information available to him or her prior to the deadlines specified in that section.

Amendments

Due to this statutory change, amendments to correct the sex of the decedent (item 6 on the death certificate) will only be accepted if one of the following is submitted:

A. Amendment signed by any two persons with knowledge of the facts, AND is accompanied by supporting documentation as specified in HSC Section 102875(a)(1)(B);

OR

B. Amendment is accompanied by a court order issued under HSC Section 102875(a)(1)(C), AND the amendment must be signed by the person designated in the court order, as well as one other person with knowledge of the facts.

Continued next page

REPORTING DECEDENT "SEX" ON DEATH CERTIFICATES

Page 3

Instructions This new law makes it more difficult to correct the sex on the death record. Prior to submitting a death record, funeral home staff should carefully proofread and confirm "sex" of decedent with informant.

Definitions:

- 1) Informant- relationship to decedent is not defined in law; however, the informant should be selected as the best person to provide decedent's personal information on the death record.
- 2) Person(s) with right(s) to control disposition- relationship to decedent as defined in HSC, Section 7100.

The following tables outline how a decedent's gender is to be determined during registration of a death record and during the amendment process:

DEATH CERTIFICATE			
When...	Documentation presented?	Person(s) with right to control disposition pursuant to HSC Section 7100....	Death Record decedent "Sex" is reported...
Informant Reports Gender Identity On Death Certificate	No	Majority <u>agree</u> with gender identity reported by informant.	Gender Identity reported by informant.
	No	Majority <u>disagree</u> with informant.	Gender Identity as reported by the person (or persons with equal rights) under Section 7100.
	No	Minority <u>disagree</u> with gender identity reported by informant.	Gender identity reported by informant unless party(ies) in disagreement obtain a court order pursuant to Section 102875(C); under this new section, qualified persons under section 7100 have right to file petition with court to determine person who has the right to report gender identity of decedent.
	Yes	Agree or disagree with gender identity reflected on documentation.	Gender Identity reflected on documentation presented is reported.

Continued next page

REPORTING DECEDENT "SEX" ON DEATH CERTIFICATES

AMENDMENT			
When...	Documentation submitted with amendment?	Person(s) required to sign the amendment....	Amendment accepted to correct decedent "sex"...
Changing "Sex" on Death Amendment	Yes – Court Order prescribing person who may report "sex" on the death record per Section 102875(a)(1)(C).	Person named in court order must sign amendment.	Amendment will be accepted if accompanied by court order issued pursuant to Section 102875(a)(1)(C) specifying person authorized by court to report decedent "sex," and delegated person is one of the signers.
	Yes – Court Order reflecting gender reassignment/ name change to reflect gender change.	Any person(s) with knowledge of the facts may sign amendment.	Amendment will be accepted if accompanied by court order approving a name/gender change.
	Yes – Documentation of decedent's gender as listed in Section 102875(a)(1)(B).	Any person(s) with knowledge of the facts may sign amendment.	Amendment will be accepted if accompanied by supporting documentation as specified in HSC Section 102875(a)(1)(B).
	No	N/A	Amendment will NOT be accepted without court order or supporting documentation as specified in HSC Section 102875(a)(1)(B).

Updated Handbook

Revised pages to the Death Registration Handbook will follow at a later date.

Required Action

All registrars, coroners, and medical examiners are required to share this information with the physicians, funeral homes, hospitals, and medical facilities, located within their local registration district.

Continued next page

REPORTING DECEDENT "SEX" ON DEATH CERTIFICATES

Page 5

Questions If you have any questions, please contact the CA-EDRS Help Desk at
(916) 552-8123.

Sincerely,

Original signed by:

Tony Agurto, MPA
State Registrar and Assistant Deputy Director
Center for Health Statistics and Informatics
California Department of Public Health