

## **Minnesota Department of Health Statement of Need and Reasonableness**

### **Proposed Revision of Rules Governing Vital Records resulting in the Repeal of Minnesota Rules, chapter 4600, and replacing it with Minnesota Rules, chapter 4601.**

#### **INTRODUCTION**

The Minnesota Department of Health (MDH) is responsible for creating and maintaining the official records of each birth and death that occurs in Minnesota. MDH collects descriptive and medical information about births and deaths for civil registration, public health initiatives, statistical analysis, and research activities. Civil registration is the official recording of births and deaths so these records can be used to establish identity or for legal purposes such as to settle an estate, apply for social security benefits, register for school, or obtain a social security number or a passport.

MDH is in the third year of the Vital Statistics Redesign Project, which is a five year project to advance a centralized electronic vital records system by encouraging the use of electronic technology in the collection and reporting of birth and death information in Minnesota. The current vital records system is a mixture of manual and electronic processing with birth and death information collected on paper and later entered into computer files by MDH staff. To date, most of the use of electronic technology has been focused on meeting the demand for statistical analysis and providing electronic data for research activities. Most civil registration information is processed manually. The proposed system, to be developed and implemented during 1999 and 2000, will focus on extending the use of electronic technology to data collection, civil registration data processing, and the issuance of certified birth and death certificates to:

- 1) improve data quality and timeliness;
- 2) improve protection against fraud; and
- 3) improve customer service (Hammer, 1999; see Appendix C).

The proposed revision of rules governing vital records is a critical activity of the Vital Statistics Redesign Project, which will result in the replacement of Minnesota Rules, chapter 4600, with Minnesota Rules, chapter 4601. The following paragraphs briefly describe the basis for changes between chapter 4600 and the proposed language in chapter 4601.

#### Transition to an Electronic System

Minnesota Rules, chapter 4600, was written to support a manual system. The basis of many of the changes from chapter 4600 to 4601 is to develop public policy to support the transition to a centralized electronic vital records system of the State Registrar and actualize the goals of the project listed above.

### Signature Requirements

One significant change in the transition to an electronic system is the elimination of signature requirements. The current rules require signatures to certify fact of birth and cause of death and to amend a birth or death record. The majority of the requirements are for physician signatures. MDH considered several electronic alternatives to signatures including digital signatures, signature capture devices, and user authentication through user IDs and passwords.

Digital signatures and signature captures devices were not chosen as options because they add expense to both the user and MDH. The user must annually purchase a digital signature. The costs for a digital signature with an adequate level of security is approximately \$300-\$400. A signature capture device is less expensive (approximately \$200) but is a physical device that must be installed on each workstation used for the electronic system. Additionally, these technologies are new and not currently in wide use.

MDH chose user IDs and passwords because it is the least expensive option and that with user IDs and passwords, data encryption technology, and careful system monitoring, the integrity and reliability of the birth and death records can be maintained. MDH will continue to monitor developments in user authentication technology and will make changes to the electronic system as needed to protect the integrity and reliability of the birth and death records.

The electronic system will allow the printing of the birth worksheet or transcript. There is nothing in the proposed rules that precludes a hospital, physician's office, or clinic from establishing its own procedures in the preparation of a birth or death record for filing. These internal procedures may include a signature or approval process and maintaining a copy of the birth worksheet or transcript in the medical record.

### Readability and Practicality

The proposed amendments clarify and simplify the language of the rules and, when appropriate, reflect current practice. The proposed language balances policy that is sufficient to collect and maintain accurate, current data with procedures that are practical and efficient.

### Elimination of Redundant Language

The proposed amendments eliminate parts of Minnesota Rules, chapter 4600, that are not within the scope of the system of vital statistics, as defined by Minnesota Statutes, section 144.212, or are addressed in Minnesota Statutes. For example, Minnesota Statutes, chapter 149A, which was adopted in 1997, replaces several parts of chapter 4600 that are out of the scope of the system of vital statistics because the content pertains to the removal and disposition of dead bodies rather than the creation and issuance of birth and death records.

### User Friendly Organization

The proposed amendments reorganize the rules to facilitate ease of use and understanding. In chapter 4600, the same topical area is addressed in several non-consecutive parts so a person may need to read the entire set of rules in order to find an answer to a specific question.

Additionally, two parts may need to be read together before the meaning is clear. The proposed language of chapter 4601 is organized in seven major sections:

- 1) definitions;
- 2) administration;
- 3) births;
- 4) deaths;
- 5) fetal deaths;
- 6) standardized format; and
- 7) tangible interest.

Explicit reference to other parts is included.

### National Guidelines

The proposed amendments promote consistency with the processes recommended by the Centers for Disease Control and Prevention (CDC) and the National Center for Health Statistics (NCHS) as published in the Model State Vital Statistics Act and Regulations. Model State Vital Statistics Act and Regulations is a document published by the U.S. Department of Health and Human Services, Public Health Service to aid in the development and promotion of standard certificates, reporting forms, training, quality control programs, and model legislation for vital registration and statistics systems. Model State Vital Statistics Act and Regulations are not law or federal regulation but a guide for states to follow and adapt to individual state law and rule (see Appendix C).

### New Statutory Requirements

The proposed amendments establish standardized formats for certified birth and death certificates as required by Minnesota Statutes, section 144.225, subdivision 8, and define what constitutes evidence of tangible interest as required by Minnesota Statutes, section 144.225, subdivision 7.

### Process Used to Develop the Proposed Language

The process used to develop the proposed language began with publishing the Request for Comments in the State Register in February 1998. MDH identified and invited affected and interested parties to participate on the Vital Records Rules Advisory Committee. The Committee met twelve times from July 1998 through October 1999. All the meetings of the Committee were open to the public. Please refer to Appendix D for copies of letters of support for the rules.

## **ALTERNATIVE FORMAT**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Gloria Haluptzok at the Center for Health Statistics, Minnesota Department of Health, 717 Delaware Street Southeast, P.O. Box 9441, Minneapolis, Minnesota 55440, telephone:

612-676-5109, fax: 612-676-5264. TTY users may call the Department of Health at 651-215-8980.

## STATUTORY AUTHORITY

MDH's statutory authority to adopt the rules is set forth in the following four sections.

- 1) Minnesota Statutes, section 144.12, subdivision 1, clause (11), provides:

“Subdivision 1. **Rules.** The commissioner may adopt reasonable rules pursuant to chapter 14 for the preservation of the public health. The rules shall not conflict with the charter or ordinance of a city of the first class upon the same subject. The commissioner may control, by rule, by requiring the taking out of licenses or permits, or by other appropriate means, any of the following matters:  
....

(11) The collection, recording, and reporting of vital statistics by public officers and the furnishing of information to them by physicians, undertakers, and others of births, deaths, causes of death, and other pertinent facts;”

- 2) Minnesota Statutes, section 144.213, subdivision 1, provides:

“Subdivision 1. **Creation; state registrar.** The commissioner shall establish an office of vital statistics under the supervision of the state registrar. The commissioner shall furnish to local registrars the forms necessary for correct reporting of vital statistics, and shall instruct the local registrars in the collection and compilation of the data. The commissioner shall promulgate rules for the collection, filing, and registering of vital statistics information by state and local registrars, physicians, morticians, and others. Except as otherwise provided in sections 144.211 to 144.227, rules previously promulgated by the commissioner relating to the collection, filing and registering of vital statistics shall remain in effect until repealed, modified or superseded by a rule promulgated by the commissioner.”

- 3) Minnesota Statutes, section 144.215, subdivision 2, provides:

“Subd. 2. **Rules governing birth registration.** The commissioner shall establish by rule an orderly mechanism for the registration of births including at least a designation for who must file the birth certificate, a procedure for registering births which occur in moving conveyances, and a provision governing the names of the parent or parents to be entered on the birth certificate.”

4) Minnesota Statutes, section 144.221, subdivision 2, provides:

“Subd. 2. **Rules governing death registration.** The commissioner of health shall establish in rule an orderly mechanism for the registration of deaths including at least a designation for who must file the death certificate, a procedure for the registration of deaths in moving conveyances, and provision to include cause and certification of death and assurance of registration prior to final disposition.”

Under these statutes, MDH has the necessary statutory authority to adopt the proposed rules.

## REGULATORY ANALYSIS

(1) a description of the classes of persons who probably will be affected by the proposed rules, including classes that will bear the costs of the proposed rules and classes that will benefit from the proposed rules

- the classes of affected persons;

The state and local registrars, physicians who attend births or provide cause of death information, hospitals, funeral establishments, morticians, and funeral directors will be affected the most by the rules revision because they are the providers and processors of the birth and death information. Others who will be affected are users of vital records data, including the Minnesota Historical Society, schools, Social Security Administration, passport offices, immigration, the military, National Center for Health Statistics, Department of Human Services, the Veteran’s Administration, life insurance companies, estate attorneys, genealogists, historical researchers, other vital records data users, and the general public.

- those that will bear the costs of the proposed rules; and

The cost of the current rules is borne by the state and local registrars, physicians who attend births or provide cause of death information, hospitals, funeral establishments, morticians, and funeral directors because they are the providers and processors of the birth and death information. The changes from Minnesota Rules, chapter 4600, to Minnesota Rules, chapter 4601, do not significantly impact the cost of the rules to any of the affected entities or persons. Although two fees (one optional) for services are proposed, the majority of fees for services related to birth and death records do not change in the proposed rules.

- those that will benefit from the proposed rules.

MDH anticipates that all affected persons will benefit from the increased clarity and reorganization of the rules because the rules will be easier to use and understand. Additionally,

improved birth and death record amendment processes are easier to understand and less ambiguous for staff and the general public.

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rules and any anticipated effect on state revenues

- the probable costs to the agency of implementation and enforcement;

The changes from Minnesota Rules, chapter 4600, to Minnesota Rules, chapter 4601, do not significantly impact the cost of the rules to MDH for implementation and enforcement. The current duties of the state and local registrars, physicians who attend births or provide cause of death information, hospitals, funeral establishments, morticians, and funeral directors are not significantly changed. Please see the paragraph below on the cost and revenue impact of the development and implementation of the centralized electronic system.

- the probable costs to any other agency of implementation and enforcement;

The changes from Minnesota Rules, chapter 4600, to Minnesota Rules, chapter 4601, do not significantly impact the cost of the rules to any other agency of implementation and enforcement.

The current duties of the state and local registrars, physicians who attend births or provide cause of death information, hospitals, funeral establishments, morticians, and funeral directors are not significantly changed.

- any anticipated effect on state revenues; and

MDH does not anticipate any significant effect on state revenues from the changes from Minnesota Rules, chapter 4600, to Minnesota Rules, chapter 4601. Although two fees (one optional) for services are proposed, the majority of fees for services related to birth and death records do not change in the proposed rules. Please see the paragraph below on the cost and revenue impact of the development and implementation of the centralized electronic system.

- cost and revenue impact of the centralized electronic system.

The cost and revenue impact of the centralized electronic system on state and local registrars and other system users is separate from this rules revision process. According to Minnesota Statutes, section 144.226, subdivision 4, the Vital Statistics Redesign Project, which includes the development of the centralized electronic system, is funded by a three dollar surcharge on the issuance of certified birth and death certificates, non certified copies of birth and death records, and statements of no record found. The three dollar surcharge sunsets June 30, 2002. Prior to the sunset date, MDH must propose to the legislature an ongoing funding plan. This plan must include an analysis of the cost and revenue impact of the centralized electronic system on state and local registrars and other system users.

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rules

- less costly methods; or

No less costly methods for achieving the purpose of the proposed rules were considered. The implementation of the electronic system described in the introduction will achieve efficiencies that may reduce costs.

- less intrusive methods.

The proposed amendments include the least intrusive methods for achieving the purpose of the proposed rules. The current duties of the state and local registrars, physicians who attend births or provide cause of death information, hospitals, funeral establishments, morticians, and funeral directors are not significantly changed. The amendments to the rules clarify and simplify the language of the rules and, whenever appropriate, reflect current practice.

The elimination of signature requirements described on page 2 allows hospitals, funeral establishments, clinics, and physician offices more flexibility in developing processes and assigning tasks related to the provision of birth and death information. Changes to the death record amendment process described on pages 39-41 create a more open amendment process, eliminate ambiguity and offer informants and funeral directors an opportunity to control their involvement. Demonstration of tangible interest described on pages 45-46 balance requiring enough information to adequately demonstrate tangible interest with simplicity and flexibility so that the process of demonstrating tangible interest will be fast and simple for the majority of people.

(4) a description of any alternative methods for achieving the purpose of the proposed rules that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rules

For a description of alternative methods that were seriously considered and the reasons why they were rejected in favor of the proposed rules, please refer to the following specific discussions:

- 1) signature options is included on page 2;
- 2) transfer of fetal death reporting to the medical community on pages 41-42; and
- 3) standardized format for a certified birth or death certificate on pages 43-45.

(5) the probable costs of complying with the proposed rules

The changes from Minnesota Rules, chapter 4600, to Minnesota Rules, chapter 4601, do not significantly impact the cost of complying with the current rules. The current duties of the state and local registrars, physicians who attend births or provide cause of death information, hospitals, funeral establishments, morticians, and funeral directors are not significantly changed.

The implementation of the electronic system described in the introduction will achieve efficiencies that may reduce costs. Additionally, please see the paragraph in item 2 on the cost and revenue impact of the development and implementation of the centralized electronic system.

(6) an assessment of any differences between the proposed rules and existing federal regulations and a specific analysis of the need for and reasonableness of each difference

There are no differences between the proposed rules and existing federal regulations. One basis for change in the proposed language is to promote consistency with the processes recommended by the Centers for Disease Control and Prevention (CDC) and the National Center for Health Statistics (NCHS) as published in the Model State Vital Statistics Act and Regulations.

More specific descriptions of the effects of the rules are included in the part by part analysis.

### **COMMISSIONER OF FINANCE REVIEW OF CHARGES**

Please refer to Appendix A for the Department of Finance approval of the proposed fees.

### **PERFORMANCE-BASED RULES**

Minnesota Rules, chapter 4601, does not regulate the provision of health care services provided by hospitals or physicians or to funeral or burial services provided by funeral establishments. Minnesota Statutes, section 144.213, subdivision 1, requires the commissioner to “establish an office of vital statistics under the supervision of the state registrar” and to “promulgate rules for the collection, filing, and registering of vital statistics information by state and local registrars, physicians, morticians, and others.”

MDH has re-emphasized the limits of the scope of rules governing vital records by eliminating the parts of Minnesota Rules, chapter 4600 that are not within the scope of the system of vital statistics as stated in Minnesota Statutes, section 144.213.

To emphasize superior achievement in meeting the agency’s regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals, the amendments to the rules emphasize the following:

- 1) clear direction to local registrars, hospitals, funeral establishments, and physicians;
- 2) local registrar training;
- 3) continuation of current practices that are compliant with statute;
- 4) support of the development of a centralized electronic system, which will improve data quality and timeliness, improve customer service, improve protection against fraud, and improve data processing efficiency;
- 5) more flexibility in developing processes and assigning tasks related to the provision of birth



- and death information for hospitals, funeral establishments, clinics, and physician offices;
- 6) the opportunity for informants of death related information and funeral directors to control their involvement in the death record amendment process;
  - 7) balance requiring enough information to adequately demonstrate tangible interest with simplicity and flexibility so that the process of demonstrating tangible interest will be fast and simple for the majority of people; and
  - 8) the use of referral and waiver provisions to accommodate exceptions without undue burdens on registrars, hospitals, funeral establishments, physicians, or the public.

**ADDITIONAL NOTICE**

Please refer to Appendix B for a copy of the notice plan.

**LIST OF WITNESSES**

If these rules go to a public hearing, the Department anticipates having the following witnesses testify in support of the need for and reasonableness of the rules:

1. Barbara Bednarczyk, State Registrar, Minnesota Department of Health
2. Sharon Hammer, Vital Records Redesign Project Coordinator, Minnesota Department of Health
3. Gloria Haluptzok, Assistant Project Coordinator, Vital Records Redesign Project, Minnesota Department of Health
4. Other Department of Health employees and Office of the Attorney General staff, as deemed necessary or appropriate.

**Rule by Rule Analysis**

Cross References from Minnesota Rules, chapter 4600 to Minnesota Rules, Chapter 4601

Reference in chapter 4600	Reference in chapter 4601
4600.0100 Definitions	4601.0100 Definitions
4600.0200 Preparation of Birth and Death Records by Court Administrator	None
4600.0300 Maintenance of Local Files and Transfer to the State Registrar	4601.0300 Duties of Local Registrars, item H.
4600.0400 Duty of the State Registrar to	4601.0200 Duties of State Registrar

Maintain Agreement of Records	
4600.0500 Transfer of Record Custody	4601.0300 Duties of Local Registrars
4600.0600 Falsified Records	4601.1400 Expungement of Birth Records 4601.1000 Birth Record Amendments, subpart 10 4601.2100 Death Record Amendments, subpart 8 4601.2200 Fetal Death Reporting, subpart 4 4601.2400 Expungement of Death and Fetal Death Records
4600.0700 Certificates	4601.0200 Duties of State Registrar, item F and 4601.0300 Duties of Local Registrars, item F
4600.0800 Recording of Information subpart 1 subpart 2  subpart 3	None 4601.0700 Births in Moving Conveyance 4601.1700 Place and Time of Death 4601.2200 Fetal Death Reporting, subpart 2 None
4600.0900 Fees	4601.0400 Fees
4600.1000 Filing Requirements for Birth Certificates	4601.0600 Filing Documentation of Birth within the First Year of Birth
4600.1100 Confidential Medical Supplement	None
4600.1200 Monthly Hospital Report	4601.0800 Monthly Report of Births; 4601.1900 Monthly Funeral Establishment Report; and 4601.2200 Fetal Death Reporting
4600.1300 Information Confidential	None
4600.1400 Disposition of Fetal Remains	4601.2200 Fetal Death Reporting
4600.1500 Legitimacy	4601.1300 Replacement Birth Record, subpart 1, item B
4600.1600 Foundling Registration	4601.0600 Filing Documentation of Birth within the First Year of Birth, subpart 3

4600.1700 Death Certificate	4601.1500 Documentation of Death
4600.1800 Fetal Death Report	4601.2200 Fetal Death Reporting
4600.1900 Completion of Death Certificate	4601.1600 Collecting and Providing Documentation of Death
4600.2000 Referrals to Coroner or Medical Examiner	None
4600.2100 Physician in Attendance	4601.0100 Definitions, subpart 19 4601.1800 Providing Cause of Death Information
4600.2200 Medical Certification	4601.1800 Providing Cause of Death Information
4600.2300 Deaths from Undetermined Circumstances	None
4600.2400 Monthly Report of Deaths	4601.1900 Monthly Funeral Establishment Report
4600.2500 Dead Body Not Found	None
4600.2600 Delayed Registration of Birth	4601.0900 Delayed Birth Registration
4600.2700 Filing Delayed Registrations within Seven Years of Birth	4601.0900 Delayed Birth Registration
4600.2800 Filing Delayed Birth Registrations Seven Years or More after Birth	4601.0900 Delayed Birth Registration
4600.2900 Cancellation of Records	4601.1400 Expungement of Birth Records 4601.1000 Birth Record Amendments, subpart 10 4601.2100 Death Record Amendments, subpart 8 4601.2200 Fetal Death Reporting, subpart 4 4601.2400 Expungement of Death and Fetal Death Records
4600.3000 Delayed Registrations of Death	4601.0100 Definitions 4601.2000 Documentation of Death; Delayed Registration of Death
4600.3100 Filing Delayed Death	4601.2000 Documentation of Death; Delayed

Registrations	Registration of Death
4600.3200 Preservation of Delayed Registration Evidence	4601.1200 Summary of Documentation Submitted
4600.3300 Alteration Limitations	4601.0200 Duties of State Registrar 4601.0300 Duties of Local Registrars
4600.3400 Amendments	4601.1000 Birth Record Amendments; 4601.2100 Death Record Amendments
4600.3500 Request for Alterations	4601.1000 Birth Record Amendments; 4601.2100 Death Record Amendments
4600.3600 Certified Copy Required	None
4600.3700 Evidence Required	4601.1000 Birth Record Amendments; 4601.2100 Death Record Amendments
4600.3800 Documents	4601.1100 Requirements for Documents Submitted
4600.4000 Abstract of Documentation Required	4601.1200 Summary of Documentation Submitted
4600.4100 Requirement for Affidavits	None
4600.4200 Duties of Local Registrars for Alterations and Amendments	4601.0300 Duties of Local Registrars
4600.4300 Duties of the State Registrar	4601.0200 Duties of State Registrar
4600.4400 Local Referrals to the State Registrar	4601.0300 Duties of Local Registrars
4600.4500 Duties of Local Registrar of a Federal Reservation and of a City other than One of the First Class	4601.0300 Duties of Local Registrars
4600.4600 Replacement Certificate	4601.1300 Replacement Birth Record
4600.4700 Adoption	4601.1300 Replacement Birth Record, subpart 1, item A
4600.4800 Legitimation	4601.1300 Replacement Birth Record, subpart 1, item B
4600.4900 Adjudication	4601.1300 Replacement Birth Record,

	subpart 1, item C
4600.5000 Delayed Registrations	None
4600.5100 Alteration of Replacement Certificate	None
4600.5200 Foreign Births	4601.2525 Requirements for Certified Birth Certificate, subpart 4
4600.5300 Certification of Altered Records	None
4600.5400 Abstract of Birth in Stepfather's Name	None
4600.5500 Abstract of Birth in Foster Parent's Name	None
4600.5600 Restricted Certification	None
4600.5700 Prima Facie Evidence	None
4600.5800 Information for Commercial Use	None
4600.5900 Unauthorized Certification Prohibited	None
4600.6000 Copying of Records	None
4600.6100 Permit for Disposition	None
4600.6200 Notice of Removal Permit	None
4600.6300 Ashes of the Dead	None
4600.6400 Issuance of a Permit	None
4600.6500 Use and Filing Permit	None
4600.6600 Cemetery Official to be Appointed	None
4600.6700 Death Outside State Burial Permit	None

Justification for the parts of Minnesota Rules, chapter 4600 that were repealed and not replaced in Minnesota Rules, chapter 4601.

**4600.0200 PREPARATION OF BIRTH AND DEATH CERTIFICATES BY COURT ADMINISTRATOR.**

Part 4600.0200 requires that the local registrar in the county of the mother's residence receive an official copy of the birth record. Part 4600.0200 is repealed and not replaced in chapter 4601 because the need to provide the county of residence with a copy of a birth record will no longer exist in a centralized electronic system of the State Registrar. All local registrars will have access to records for all births and deaths that occur in Minnesota. Reports listing births and deaths by resident county will be available as a menu selection on the electronic system.

**4600.0800 RECORDING OF INFORMATION.** Subpart 1 states that “[a]ll references to time on vital records shall refer to the time in effect when the event occurred.” Subpart 1 is repealed and not replaced in chapter 4601 because the instruction for recording time is unnecessary and causes confusion. The historical purpose of this section appears to be recording the time according to the conventions that are in place. For example, if daylight savings time is in place at the time of the birth, the time of birth is recorded according to daylight savings time. People do this automatically if they are not confused by vague instructions.

Subpart 3 requires anyone who has information about a birth to provide the information to a registrar and forbids providing false information. Subpart 3 is repealed and not replaced in chapter 4601 because:

- 1) a registrar does not have the authority to compel anyone to provide information. The State Registrar could seek a court order if the information was not provided upon request; and
- 2) providing false information is addressed in Minnesota Statutes, section 144.227, subdivision 1, which states:

“False statements. Whoever intentionally makes any false statement in a certificate, record, or report required to be filed under sections 144.211 to 144.214 or 144.216 to 144.227, or in an application for an amendment thereof, or in an application for a certified copy of a vital record, or who supplies false information intending that the information be used in the preparation of any report, record, certificate, or amendment thereof, is guilty of a misdemeanor.”

**4600.1100 CONFIDENTIAL MEDICAL SUPPLEMENT.** This part erroneously classifies health data collected as part of the birth record as confidential and restates the statutory filing date. Part 4600.1100 is repealed and not replaced in chapter 4601 because health data associated with the birth registration is classified as private by Minnesota Statutes, section 144.225, subdivision 2a. Repealing this part does not change the filing requirement under Minnesota Statutes, section 144.215, subdivision 1.

**4600.1300 INFORMATION CONFIDENTIAL.** This part requires hospitals to comply with the confidential classification of births to unmarried parents. Part 4600.1300 is repealed and not replaced in chapter 4601 because protection of patient records is included in Minnesota Statutes, section 144.335, subdivision 3a.

**4600.2000 REFERRALS TO CORONER OR MEDICAL EXAMINER.** This part explains when a mortician, funeral director, or other person in charge of the disposition of the body must notify the coroner or medical examiner. Part 4600.2000 is repealed and not replaced in chapter 4601 because referrals to coroners and medical examiners are governed by the Mortuary Science laws at Minnesota Statutes, section 149A.90, subdivision 3, enacted in 1997, which states:

“Referrals to coroner or medical examiner. The mortician, funeral director, or other person lawfully in charge of the disposition of the body shall notify the coroner or medical examiner before moving a body from the site of death in any case:

- (1) where the person is unable to obtain firm assurance from the physician in attendance that the medical certification will be signed;
- (2) when circumstances suggest that the death was caused by other than natural causes;
- (3) where deaths occur under mysterious or unusual circumstances;
- (4) where there is a violent death, whether homicidal, suicidal, or accidental, including but not limited to: thermal, chemical, electrical, or radiational injury; and deaths due to criminal abortion, whether self-induced or not;
- (5) where the body is to be disposed of in some manner which prevents later examination, including but not limited to, cremation, dissection, or burial at sea; or
- (6) when the decedent was an inmate of a public institution who was not hospitalized for organic disease.”

**4600.2300 DEATHS FROM UNDETERMINED CIRCUMSTANCES.** This part states that “[d]eaths shall be classified as due to undetermined circumstances only when it is impossible to establish the circumstances of death.” Part 4600.2300 is repealed and not replaced in chapter 4601 because this part is unnecessary as it reflects the current practice of classifying deaths as due to undetermined circumstances only when it is impossible to establish the circumstances of death. Additionally, to ensure that complete information is provided, automatic queries to physicians who reported deaths from undetermined circumstances will be generated from the centralized electronic system of the State Registrar.

**4600.2400 MONTHLY REPORT OF DEATHS.** This part requires a monthly report of deaths based on who provides a casket for any final disposition of the body. Part 4600.2400 is repealed and not replaced in chapter 4601 because the reporting requirement for persons providing caskets is governed by the Mortuary Science laws at Minnesota Statutes, section

149A.71, subdivision 4, enacted in 1997, which states:

“Casket, alternate container, and cremation container sales; records; required disclosures. Any funeral provider who sells or offers to sell a casket, alternate container, or cremation container to the public must maintain a record of each sale that includes the name of the purchaser, the purchaser's mailing address, the name of the decedent, the date of the decedent's death, and the place of death. These records shall be open to inspection by the commissioner and reported to the commissioner. Any funeral provider selling a casket, alternate container, or cremation container to the public, and not having charge of the final disposition of the dead human body, shall enclose within the casket, alternate container, or cremation container information provided by the commissioner that includes a blank certificate of death, and a copy of the statutes and rules controlling the removal, preparation, transportation, arrangements for disposition, and final disposition of a dead human body. This section does not apply to morticians, funeral directors, funeral establishments, crematories, or wholesale distributors of caskets, alternate containers, or cremation containers.”

However, please note that the proposed rules at part 4601.1900, Monthly Funeral Establishment Report, require funeral establishments that do not report on the electronic system to report deaths each month to the State Registrar.

**4600.2500 DEAD BODY NOT FOUND.** This part provides direction on what must be done if a body is not found. Part 4600.2500 is repealed and not replaced in chapter 4601 because the requirements are duplicated in Minnesota Statutes, section 144.221, subdivision 3, which states:

“When no body is found. When circumstances suggest that a death has occurred although a dead body cannot be produced to confirm the fact of death, a death certificate shall not be registered until a court has adjudicated the fact of death. A certified copy of the court finding shall be attached to the death certificate when it is registered.”

**4600.3600 CERTIFIED COPY REQUIRED.** This part requires a person requesting an amendment to provide a certified birth or death record at the time the amendment is requested. Part 4600.3600 is repealed and not replaced in chapter 4601 because providing a certified birth or death certificate when requesting an amendment is not necessary and is an additional expense for the person requesting the amendment. A registrar will be able to easily retrieve the record from the electronic system. Part 4601.0400, subpart 6 allows the fee for a certified birth or death certificate to be waived if the person surrenders the previously issued certificate that is in error.

**4600.4100 REQUIREMENTS FOR AFFIDAVITS.** This part provides direction for the creation and storage of affidavits to amend a birth or death record. Part 4600.4100 is repealed and not replaced in chapter 4601. Requirements for affidavits or notarized statements are



included throughout the rules as appropriate. However, the revisions to these rules reflect the policy to rely more on documentation submitted as evidence than on affidavits when registering or amending birth or death records.

**4600.5000 DELAYED REGISTRATIONS.** This part confuses creating replacement records and delayed registrations. Part 4600.5000 is repealed and not replaced in chapter 4601. If no record is found when a replacement record is requested, the person requesting the replacement will be notified that there is no record for the alleged registrant and a delayed registration must be filed according to part 4601.0900 before the replacement can be made. Replacement records of delayed registration will be treated no differently than any other replacement record. Delayed registrations may be filed according to part 4601.0900 for any person born in Minnesota whose birth is not recorded. It does not have to be a replacement record.

**4600.5100 ALTERATION OF REPLACEMENT CERTIFICATE.** This part does not allow a replacement record to be amended except through a limited court order. Part 4600.5100 is repealed and not replaced in chapter 4601. Once a replacement record is finalized, it will not be treated differently than any other birth record in the amendment process. The intent of legislation creating a replacement record is that it literally takes the place of the original record and is not to be identified as anything but an original record by the general public. Under the current rules, however, a replacement record cannot be amended; it is treated differently than an original record. This difference in the way the record is treated sets it apart from other original records and alerts the public to the difference. Additionally, errors go uncorrected. Under the proposed rules revision, a replacement record can be amended through the same process as any other record. It will not be treated differently than an original record and errors will be corrected.

**4600.5300 CERTIFICATION OF ALTERED RECORDS.** This part is a jumble of requirements including the requirement to include notations of delayed registration and amendments on the certified birth or death certificate. Part 4600.5300 is repealed and not replaced in chapter 4601. The current language is confusing and is not applicable in an electronic system. The electronic system will have the capacity to track amendments and make notations regarding amendments on the certified copy.

**4600.5400 ABSTRACT OF BIRTH IN STEPFATHER'S NAME and 4600.5500 ABSTRACT OF BIRTH IN FOSTER PARENTS' NAME.** These parts allow certified birth certificates to be issued in a stepfather's name or in the surname of the foster parents. Parts 4600.5400 and 4600.5500 are repealed and not replaced in chapter 4601. An abstract in a stepfather's name or foster parents' names will not be issued as a certified birth certificate. Allowing these abstracts creates that possibility that a person could have three different certified birth certificates in three different names (e.g., the original birth name, the step parent's name and the foster parents' name). Eliminating the practice of creating these certificates reduces the

potential for fraud and confusion.

**4600.5600 RESTRICTED CERTIFICATION.** This part restricts release of private data but ties the identification of that data to the form used to collect the data. Part 4600.5600 is repealed and is not replaced in chapter 4601 because it is not needed and it confuses classification of the data with where the request for the data is collected on the data collection form.

Health data associated with a birth or fetal death is classified as private by Minnesota Statutes, section 144.225, subdivision 2a, and is not currently part of the certified birth certificate or the public version of the fetal death report. Because it is private data, it will not be part of the standard format for certified birth certificates or included in the public version of fetal death reports that are issued from the centralized electronic system. There will be non-certified copies of birth records and fetal death reports that include the medical data so that private data can be provided on request to authorized individuals.

**4600.5700 PRIMA FACIE EVIDENCE.** This part duplicates language in statute about paternity and declares what is considered sufficient evidence. Part 4600.5700 is repealed and is not replaced in chapter 4601 because birth records are processed according to statutory requirements for the establishment of paternity and “prima facie evidence” is a legal term that applies in a judicial context. It is beyond the scope of these rules to make a statement about what a judge or other legal decision-maker may rely on as sufficient evidence.

**4600.5800 INFORMATION FOR COMMERCIAL USE.** This part prohibits the release of public data if the person requesting the data intends to use the data for commercial purposes. Part 4600.5800 is repealed and not replaced in chapter 4601 because limiting access to public data does not comply with the Minnesota Government Data Practices Act at Minnesota Statutes, section 13.03, subdivision 1. Please refer to the opinion from the Department of Administration included in Appendix E.

**4600.5900 UNAUTHORIZED CERTIFICATION PROHIBITED.** This part prohibits fraudulent creation or issuance of a vital record. Part 4600.5900 is repealed and not replaced in chapter 4601. Prohibiting fraudulent creation or issuance of a vital record is included in Minnesota Statutes, section 144.227, subdivision 2, which provides:

“Subd. 2. **Fraud.** Any person who, without lawful authority and with the intent to deceive, willfully and knowingly makes, counterfeits, alters, obtains, possesses, uses or sells any certificate, record or report required to be filed under sections 144.211 to 144.227, or a certified copy of a certificate, record or report, is guilty of a gross misdemeanor.”

**4600.6000 COPYING OF RECORDS.** The purpose of this part is to provide copies of or provide verification of information in a vital record and to limit access to the paper record if the record is physically deteriorating or if the record contains private or confidential data. Part

4600.4600 is repealed and is not replaced in chapter 4601 as the requirements in this part are covered under the Minnesota Government Data Practices Act at Minnesota Statutes, chapter 13 and Minnesota Statutes, section 144.225, subdivision 1.

**4600.6100 PERMIT FOR DISPOSITION, 4600.6200 NOTICE OF REMOVAL PERMIT, 4600.6400 ISSUANCE OF A PERMIT, and 4600.6700 DEATH OUTSIDE STATE, BURIAL PERMIT.** These parts pertain to various permits required to move a dead body. Parts 4600.6100, 4600.6200, 4600.6400, and 4600.6700 are repealed and not replaced in chapter 4601 because requirements are governed by the Mortuary Science laws at Minnesota Statutes, section 149A.93, subdivisions 1 through 5, enacted in 1997, which states:

“Subdivision 1. **Permits required.** After removal from the place of death to any location where the body is held awaiting final disposition, further transportation of the body shall require a disposition or transit permit issued by the local registrar of the place of death, a subregistrar as defined by Minnesota Rules, part 4600.0100, subpart 5, or, if necessary to avoid delay, the commissioner. Permits shall contain the information required on the permit form as furnished by the commissioner and shall be signed by the local registrar or subregistrar and the person in legal custody of the body, and, where appropriate, the mortician, intern, or practicum student who embalmed the body, the person in charge of the conveyance in which the body will be moved, or the person in charge of the place of final disposition. Where a funeral establishment name is used in signing a permit, it must be supported by the personal signature of a licensee employed by the funeral establishment.

Subd. 2. **Transit permit.** A transit permit shall be required when a body is to be:

- (1) moved within a registration district and legal and physical custody of the body is transferred;
- (2) removed from a registration district;
- (3) removed from the county where the death occurred;
- (4) transported by public transportation; or
- (5) removed from the state.

Subd. 3. **Disposition permit.** A disposition permit shall be required before a body can be buried, entombed, or cremated, or when a body will be retained for more than five calendar days. No disposition permit shall be issued until a death certificate has been completed or the issuing authority receives firm assurances that the death certificate will be completed within a reasonable amount of time not to exceed seven calendar days from the issuance of the permit.

Subd. 4. **Possession of permit.** Until the body is delivered for final disposition, the permit shall be in possession of the person in physical or legal custody of the body, or attached to the transportation container which holds the body. At the place of final disposition, legal custody of the body shall pass with the filing of the disposition permit with the person in charge of that place, the

health board authorized under section 145A.04, where local disposition permits are required, or the commissioner where there is no legal entity in charge of the place of final disposition.

**Subd. 5. Death outside state; disposition permit.** When a death occurs outside of the state and the body travels into or through this state, the body must be accompanied by a permit for burial, removal, or other disposition issued in accordance with the laws and rules of the state where the death occurred. The properly issued permit from the state where the death occurred shall authorize the transportation of the body into or through this state, but before final disposition in this state, a separate Minnesota disposition permit must be issued and filed, together with the foreign permit, according to subdivision 4.”

**4600.6300 ASHES OF THE DEAD.** This part states that cremation is considered final disposition and no additional permit is required. Part 4600.6300 is repealed and not replaced in chapter 4601 because requirements are governed by the Mortuary Science laws at Minnesota Statutes, section 149A.94, subdivision 4, enacted in 1997, which states:

“Subd. 4. **Cremation.** Inurnment of cremated remains and release to an appropriate party is considered final disposition and no further permits or authorizations are required for transportation, interment, entombment, or placement of the cremated remains, except as provided in section 149A.95, subdivision 16.”

Section 149A.95, subdivision 16, states:

“Subd. 16. **Disposition procedures; commingling of cremated remains prohibited.** No cremated remains shall be disposed of or scattered in a manner or in a location where the cremated remains are commingled with those of another person without the express written permission of the person with the legal right to control disposition or as otherwise provided by law. This subdivision does not apply to the burial of cremated remains at sea from individual containers, to the scattering or burial of cremated remains in a dedicated cemetery, to the disposal in a dedicated cemetery of accumulated residue removed from a cremation chamber or other cremation equipment, to the inurnment of members of the same family in a common container designed for the cremated remains of more than one body, or to the inurnment in a container or interment in a space that has been previously designated, at the time of sale or purchase, as being intended for the inurnment or interment of the cremated remains of more than one person.”

**4600.6500 USE AND FILING PERMIT.** This part includes instructions for the possession of the burial/transportation permit. Part 4600.6500 is repealed and not replaced in chapter 4601 because requirements are governed by the Mortuary Science laws at Minnesota Statutes, section 149A.94, subdivision 3, enacted in 1997, which states:

“Subd. 3. **Permit required.** No dead human body shall be buried, entombed, or

cremated without the filing of a properly issued permit with the person in charge of the place of final disposition. Where a dead human body will be transported out of this state for final disposition, the body must be accompanied by a properly issued disposition permit.”

**4600.6600 CEMETERY OFFICIAL TO BE APPOINTED.** This part requires a cemetery to appoint a person to be responsible for receiving, filing, and preserving burial/transportation permits. Part 4600.6600 is repealed and not replaced in chapter 4601 because requirements are addressed in Minnesota Statutes, section 306.03, which states:

“Every such corporation, including any person, firm, partnership, association, or corporation owning or operating a mausoleum or columbarium, shall, in addition to its ordinary corporate officers, annually appoint an actuary or provide by its bylaws that its secretary shall perform the duties of an actuary. The actuary shall keep a register of burials, entering (1) the date of burial, entombment, or cremation and (2) the name, age, sex, nativity, and cause of death of every person interred or cremated in the cemetery. These facts must be registered so far as they can be ascertained from the friends, attending physician, or undertaker in charge, and in case of a pauper, stranger, or criminal, from the public official directing the burial. The record shall be open to public inspection, and the actuary shall give the state commissioner of health and to local agents of a board of health as authorized under section 145A.04, upon their request, an accurate summary of the record during any specified year.”

Also note the Mortuary Science laws at Minnesota Statutes, section 149A.90, subdivisions 4 and 5, enacted in 1997, which require funeral establishments and crematories to maintain documentation of the removal and disposition of a body.

Minnesota Rules, chapter 4601 detail including references from Minnesota Rules, chapter 4600

4601.0100 DEFINITIONS.

Replaces part 4600.0100, Definitions.

Changes, Purpose, and Impact

4601.0100 reference	Comments
Subp. 2, 13, 16, 22, 24, 25, & 26	These subparts add the terms: amendment, funeral establishment, institution, registrar, system of vital statistics, vital record, and vital statistics by referencing the definitions from Minnesota Statutes, section 144.212.
Subp. 3 & 4	These subparts add the definitions of “certified birth certificate” and “certified death certificate” to clarify the portion of the birth record that will be printed in standardized format and subject to tangible interest.
Subp. 5, 9, 10, 11 & 14	These subparts add the definitions of “civil registration information,” “demographic information,” “fact of birth information,” “fact of death information,” and “health information” to differentiate the types of information collected in birth and death records.
Subp. 6	This subpart adds the definition of “date” to clarify and promote specificity.
Subp. 7	The definition of “date filed” is revised from the definition in Minnesota Rules, part 4600.0100, subpart 1, to: 1) reflect processes in the centralized electronic system, as electronic filing will be directly with the State Registrar; 2) be consistent with the definition of “file” in Minnesota Statutes, section 144.212, subdivision 3, which states “[f]ile’ means to present a vital record for registration.”
Subp. 8	The definition of “delayed registration” is revised from the definition in Minnesota Rules, part 4600.0100, subpart 2, to refer to the definition in Minnesota Statutes, section 144.212, subdivision 2a.
Subp. 12 & 17	The definitions of “fetal death” and “live birth” in Minnesota Rules, part 4600.0100, subparts 3 and 4, have been revised to be consistent with the definitions in the Model State Vital Statistics Act and Regulation from the Centers for Disease Control and Prevention (CDC) and the National

	Center for Health Statistics (NCHS).
Subp. 15	This subpart adds the definition of “induced termination of pregnancy” because the term is included in subpart 12, the definition of fetal death, and referenced in part 4601.2200 Fetal Death Reporting. The added definition is consistent with the definitions in the Model State Vital Statistics Act and Regulation from CDC and NCHS.
Subp. 18	This subpart adds the definition of “notarized statement” to clarify what is required when a notarized statement may be used as documentation or evidence (See parts 4601.0600, 4601.0900, 4601.1000, 4601.1100, and 4601.2000).
Subp. 19	This subpart adds the definition of “physician” to help clarify who is qualified to provide cause of death data (See part 4601.1800).
Subp. 20	This subpart adds the definition of “register” for clarification.
Subp. 21	This subpart adds the definition of “registrant” to promote consistency when referring to the subject of a birth or death record.
Subp. 23	The definition of “subregistrar” in Minnesota Rules, part 4600.0100, subpart 5 has been revised to limit subregistrars to issuing burial and transit permits.

#### **4601.0200 DUTIES OF STATE REGISTRAR.**

This part replaces language in parts 4600.0400, Duty of State Registrar to Maintain Agreement of Records, 4600.0700, Certificates, subpart 1, 4600.3200, Preservation of Delayed Registration Evidence, Part 4600.3300, Alteration Limitations, and 4600.4300, Duties of the State Registrar, that apply to the duties and responsibilities of the State Registrar.

#### Changes, Purpose, and Impact

The purpose of this part is to consolidate and clarify the general duties of the State Registrar as outlined in Minnesota Statutes, section 144.213. The items in this part are for the State Registrar to use when developing procedures for the successful operation of the system of vital statistics. The proposed language is consistent with the Model State Vital Statistics Act and Regulations (Section 5, Duties of State Registrar on page 3 and Regulation 1.3 on pages 20-21 of the Model State Vital Statistics Act and Regulations). Please see page 3 of this document under the heading National Guidelines, for a description of the Model State Vital Statistics Act and Regulations. This part does not duplicate the language of part 4600.4300, Duties of the State Registrar. This part clarifies the responsibility of the State Registrar to set standards for the processing of birth and death records and describes current duties in the context of a centralized electronic system.

Part 4600.0400, Duty of State Registrar to Maintain Agreement of Records is repealed and the language is not duplicated in chapter 4601. Implementing a centralized electronic system means that there will be one version of the birth or death record that both the state and local registrars access. Since not all records are being entered on the electronic system, copies of records will still be in different locations. The State Registrar still has the responsibility to ensure that versions of records with different physical locations are consistent but this a lower priority and will disappear as use of the electronic system progresses.

In accordance with Minnesota Statutes, sections 138.17 and 15.17, Minnesota Rules, part 4601.0200 requires the State Registrar to establish a retention schedule and the local registrars are required to maintain their paper records according to the retention schedule established by the State Registrar. Duties of the local registrars regarding records that are not on the electronic system are addressed in part 4601.0300 Duties of Local Registrars.

As part of the Vital Statistics Redesign Project, MDH is working with the Minnesota Historical Society (MHS) to develop a plan for the long term retention of historical records. Tentative plans include transfer of death records from MDH to the MHS once the records are 40 years old. It is likely that birth records would not be transferred until the records are 100 years old because:

- 1) certified birth certificates are requested throughout a person's life; and
- 2) Minnesota Statutes, section 144.225, subdivision 2 classifies birth records for births to unmarried parents as confidential. Minnesota Statutes, section 144.225, subdivision 2, item b classifies the birth records as public data if 100 years has elapsed since the birth of the registrant.

Part 4601.0200, item F includes the language from part 4600.0700, Certificates, describing the responsibility of the State Registrar to provide forms revised to support the use of the electronic system.

Part 4601.0200, item C describes the responsibility of the State Registrar to establish a retention schedule that will include how records and other documents related to vital records will be stored. Additionally item D describes the State Registrar's responsibility to establish operating procedures for the system of vital statistics which will include the treatment and retention of documents submitted in evidence. For example, summaries of documents submitted in evidence for birth records will be entered electronically according to part 4601.1200 Summary of Documentation Submitted. Additionally, note fields will be available for each record and audit trails will be kept for each record created on the electronic system. Parts 4601.0200 and 4601.1200 preserve the intent of part 4600.3200, Preservation of Delayed Registration Evidence, which is repealed and not duplicated in chapter 4601.

The introduction of both parts 4601.0200 and 4601.0300 include the requirement that all registrars act in accordance with Minnesota Statutes, sections 144.211 to 144.227. Additionally, specific references to court ordered changes to records are made in parts 4601.1000 Birth Record



Amendments (subpart 7), 4601.1300 Replacement Birth Records (subpart 2), and 4601.2100 Death Record Amendments (subpart 5, item B, subitem 7 and subpart 7, item C). Part 4600.3300, Alteration Limitations, is repealed and not replaced in chapter 4601. The word “alteration” is not used in chapter 4601 because it has a negative and, sometimes, criminal meaning for staff at federal agencies.

The overall impact of this part is the clarification of the State Registrar’s responsibilities. Assigned duties and responsibilities have not changed. With the implementation of the electronic system of the State Registrar, the tool to complete tasks and meet responsibilities changes. Processes are changed to reflect the use of the electronic system but the rules do not eliminate the ability to do a task manually if necessary.

#### **4601.0300 DUTIES OF LOCAL REGISTRARS.**

This part replaces the language in parts 4600.0300 Maintenance of Local Files and Transfer to the State Registrar, 4600.0500, Transfer of Record Custody, 4600.0700, Certificates, subpart 2, 4600.4200, Duties of Local Registrars for Alterations and Amendments, 4600.4400, Local Referrals to the State Registrar, and 4600.4500, Duties of Local Registrar of a Federal Reservation and of a City other than one of the First Class, that apply to the duties and responsibilities of local registrars.

#### Changes, Purpose, and Impact

The purpose of part 4601.0300 is to consolidate and clarify the general duties of the local registrars as outlined under Minnesota Statutes, section 144.214, subpart 3. The items in this part are meant to provide direction to the local registrars and support the completion of the duties of the State Registrar listed in part 4601.0200. The language is consistent with Regulation 1.3 on pages 20-21 of the Model State Vital Statistics Act and Regulation and includes the duties listed in 4600.4200, Duties of Local Registrars for Alterations and Amendments. This part applies to all local registrars including registrars identified in 4600.4500, Duties of Local Registrar of a Federal Reservation and of a City other than one of the First Class.

Part 4601.0300, item F, includes the language from part 4600.0700, Certificates, subpart 2, and Minnesota Statutes, 144.214, subdivision 3, describing the responsibility of the local registrars to refuse to accept a birth or death form if the form is incomplete, inaccurate, illegible, or mutilated. The language is revised to reflect use of an electronic system.

Part 4601.0300 includes the content of 4600.0300 Maintenance of Local Files and Transfer to the State Registrar. The language is revised to reflect the use of a centralized electronic system. The only files that a local registrar will maintain separately are those that are not included in the central electronic system. Documentation of a birth or a death filed manually with a local registrar will be on an input form printed from the electronic system and will be entered into the system by a registrar. The goal of this system is to become paperless except for the paper certificate that is issued to a customer.

Part 4601.0300, item O, does not duplicate the language of part 4600.0500, Transfer of Record Custody. The responsibility of a local registrar to comply with the procedures established by the State Registrar includes making any needed record transfers.

While the language in part 4600.4400, Local Referrals to the State Registrar, is repealed and not duplicated in chapter 4601, a general direction to refer to the State Registrar is included in part 4601.0300 Duties of Local Registrars, item N. More specific directions for referrals are included in parts 4601.0600 Filing Documentation of Birth within the First Year of Birth, 4601.0900 Delayed Birth Registration, 4601.1000 Birth Record Amendments, and 4601.2100 Death Record Amendments.

The overall impact of this part is the clarification of local registrar responsibilities. A local registrar's assigned duties and responsibilities have not changed. With the implementation of the electronic system of the State Registrar, the tool to complete tasks and meet responsibilities changes. Processes are changed to reflect the use of the electronic system, but the rules do not eliminate the ability to do a task manually if necessary.

#### **4601.0400 FEES.**

This part replaces part 4600.0900.

#### Changes, Purpose, and Impact

The language in part 4600.0900, Fees, is revised as follows and included in this part. Fees that are included in Minnesota Statutes, section 144.226 are eliminated from the rules but a reference to the statutes is maintained in subpart 1. Fees for other services are included. For example, fees for multiple copies (subpart 2), a replacement record following adoption (subpart 3), an expedited fee (subpart 4), and a fee for a report generated from the electronic system (subpart 5) are included. Also a provision that fees may be waived (subpart 6) is included.

There is no change in the fees from part 4600.0900 for multiple copies or for a replacement record following adoption.

The following provides a description of and justification for two new fees: 1) an expedited fee; and 2) a data report fee.

#### 1) an expedited fee

An expedited fee (subpart 4) is a new optional fee added in response to requests from the public for a way to expedite services. Since the system of vital statistics is a fee supported program and each person pays the same fee for a service, fairness demands that MDH continue a first come first serve business practice. However, it has become clear that many people want and are willing to pay for expedited service.

Expedited fees are common in other states and agencies. According to a 1997 survey by the National Association for Public Health Statistics and Information Systems (see Appendix C), other states that charge an expedited fee charge from .33 to 1.8 times the cost for a certified birth certificate for the expedited fee. Additionally, a person may expedite processing of a passport application by paying a \$35 expedited fee.

Since MDH anticipates the most common reason to expedite a service will be to receive a certified birth certificate for traveling, MDH has based the amount of the optional expedited fee on that service. The current fee for a certified birth certificate is \$14.00. A \$20 expedited fee is slightly less than 1.5 times \$14.00, which is consistent with formulas used in other states. This fee also falls into the range of fees MDH currently charges for services: \$8.00 - \$20.00.

2) a data report fee

A fee for a report displaying vital record data (subpart 5) is new and reflects the use of the electronic system of the State Registrar. The current mix of manual and electronic systems does not allow easy access to reports of this type. Some local registrars who currently have electronic systems can provide this report, others cannot. Some local registrars prepare lists manually. Current charges for similar reports range from \$0-\$35. The electronic system of the State Registrar will make certain reports consistently available throughout Minnesota and will improve the timeliness of the data included in the report.

Government agencies are allowed to charge a fee for certain services related to the dissemination of data under Minnesota Statutes, section 13.03. In general, charges are equal to the actual costs of searching for and retrieving the data, including the cost of employee time, compiling data, printing, copying, and transmitting data. In addition, section 13.03 allows that, when a request involves any government data that has commercial value and is a substantial and discrete portion of database, or system developed with a significant expenditure of public funds by the agency, the responsible authority may charge a reasonable fee for the information in addition to the costs of making, certifying, and compiling the copies.

The fee amount proposed for generating a report is based on the following.

1) It will take an estimated 20 minutes of staff time to generate a report (includes receiving the request, determining which report will fulfill the request, creating and printing the report, and mailing or other distribution of the report). The cost of paper and postage is minimal (less than \$.50). Estimating staff hourly wage with benefits at \$14.00 per hour, an estimate of the actual cost to generate a report is approximately \$5.00 (1/3 hour \* 14.00 per hour = 4.67 + paper and postage (\$0.50) = \$5.17).

2) A recent dispute over receipt of birth records for commercial purposes in Sherburne County resulted in an opinion from the Department of Administration (see Appendix E) that Minnesota

Rules, part 4600.5800, which prohibits use of birth data for commercial purposes, conflicts with Minnesota Statutes, section 13.03, subdivisions 1 and 2. Subdivision 1 provides that all government data is public unless classified as non public by a state statute, a federal law, or a temporary classification under section 13.06. Subdivision 2 allows an individual access to public data. Part 4600.5800 is proposed to be repealed in this revision of the rules governing vital records. The dispute in Sherburne County demonstrates that vital records data have commercial value and are used by private companies in the course of business. Names and addresses of the mother are currently used for mailing lists for selling baby products and services such as photography and insurance.

3) MDH is in the third year of a five year project to develop the electronic system of the State Registrar. At the end of the project's planning, development, and implementation cycle, MDH will have spent over \$5 million. This expenditure, funded by a surcharge on birth and death records, meets the criteria in Minnesota Statutes, chapter 13, of a "system developed with a significant expenditure of public funds by the agency."

A precise formula to derive the ongoing cost of one report from a system the size and complexity of the electronic system of the State Registrar is not available. However, given the estimated cost to generate a report, the commercial value of the data, and the expenditure of birth and death certificate surcharges on the development of the electronic system of the State Registrar, \$15 is a reasonable fee for each report.

Subpart 6 requires that a registrar waive fees under certain circumstances including:

- 1) to encourage the public to surrender certificates that are in error when an amendment is made;
- 2) for report fees that are generated for county or agency use. For example, fees will be waived for the generation of a voter checklist report that will be used within the county to match against voter registration lists to reduce fraud; and
- 3) to allow the use of a report to fulfill a contractual obligation. For example, a Recognition of Parentage (ROP) report may be used to meet a reporting requirement in a contract with the Department of Human Services.

The overall impact of this part is minimal. All current fees remain the same. MDH anticipates that the expedited fee will be viewed as a customer service. The cost of the report generation is fair and reasonable. Please refer to Appendix A for the Department of Finance approval of the proposed fees.

#### **4601.0500 NO FURTHER DOCUMENTATION REQUIRED.**

This is a new part.

#### Changes, Purpose, Impact

This is a new part to state that, as long as the requirements of the rules have been met, state and local registrars are justified in accepting the information provided by a funeral establishment, hospital, or physician as correct and accurate information. Further inquiries are not required. This part reflects current practice and will have no impact on processing birth and death records.

#### **4601.0600 FILING DOCUMENTATION OF BIRTH WITHIN THE FIRST YEAR OF BIRTH.**

This part replaces parts, 4600.1000, Filing Requirements for Birth Certificates, and 4600.1600, Foundling Registration.

##### Changes, Purpose, Impact

Part of the language from 4600.1000, Filing Requirements for Birth Certificates, is revised and included in this part. The requirement that a certificate of live birth must be filed for every live birth is included in Minnesota Statutes, 144.215, subdivision 1. Subdivision 2 directs the commissioner of health to “establish by rule an orderly mechanism for the registration of births including at least a designation for who must file the birth certificate, a procedure for registering births which occur in moving conveyances, and a provision governing the names of the parent or parents to be entered on the birth certificate.”

In part 4601.0600, subparts 1 and 2, the responsibility for filing documentation of birth is shifted from the physician for all births to reflect the priority described in Minnesota Statutes, section 144.215, subdivisions 5 and 6:

- 1) for births occurring in an institution, the person in charge of the institution or that person’s authorized designee; and
- 2) for births occurring outside an institution, the physician, other birth attendant, parent of the child, etc.

Since the responsibility for filing documentation of birth is different in the proposed rules than in the current rule, it is beneficial to those who reference the rule to repeat the statutory language in Minnesota Statutes, section 144.215, subdivision 5 and 6. Detail is added to the responsibilities to clarify what is included in filing documentation of birth. Language is clarified where appropriate.

The language is consistent with current practices and with the suggested language for birth registration included in Section 7, Birth Registration, on pages 3-4 of the Model State Vital Statistics Act and Regulation.

The language in part 4600.1600, Foundling Registration is included in subpart 3. The language is revised to reflect the requirement in Minnesota Statutes, section 144.216, subdivision 1 and be modeled after the language in Section 8, Infants of Unknown Parentage; Foundling Registration, on pages 4-5 of the Model State Vital Statistics Act and Regulation. While the statute requires that the person who found the infant is to provide documentation of birth information to the State

Registrar, additional information is needed from the entity who assumes custody of the infant. The notation on a standardized format is included in part 4601.2525, Requirements for Certified Birth Certificate, subpart 5.

Minimum requirements are revised and included in subpart 4, item B. The new list of items was determined through discussions balancing collecting adequate information to register the birth with protecting the identity and safety of the child and the mother. A woman who believes that she and her child are in danger are the most likely to refuse to provide the information requested on the birth record. Subpart 5 describes the current practice of requiring recognition of parentage according to Minnesota Statutes, section 257.75 to add the father's name to the birth record if the parents are not married and there is no presumption of paternity.

The requirements for filing documentation of birth remain essentially the same. The changes from 4600 to 4601 clarify the process, reflect current practice, and reflect the use of an electronic system.

#### **4601.0700 BIRTHS IN MOVING CONVEYANCE.**

This part replaces the language in part 4600.0800, Recording of Information, subpart 2, that applies to births that occur in a moving conveyance.

##### Changes, Purpose, Impact

The language in 4600.0800, Recording of Information, subpart 2 is included under this part. The language is revised to clarify what is considered the place of birth when the birth occurs in a moving conveyance. The proposed language is modeled after language in Section 7 Birth Registration on pages 3-4 of the Model State Vital Statistics Act and Regulations.

#### **4601.0800 MONTHLY REPORT OF BIRTHS.**

This part replaces the language in part 4600.1200, Monthly Hospital Report, that applies to monthly reports of births.

##### Changes, Purpose, Impact

The language in part 4600.1200, Monthly Hospital Report, is revised to reflect the use of the electronic system and to be consistent with the new organization of the rules. Reports required from hospitals not reporting through the electronic system are included under this part and under part 4601.2200, Fetal Death Reporting, subpart 3.

Reports required from funeral establishments not reporting through the electronic system are included under part 4601.1900, Monthly Funeral Establishment Report. Funeral establishments are also required to notify the State Registrar of fetal deaths under part 4601.2300, Fetal Death Notification.

The purpose of these reports and notifications is to help ensure that all births and deaths that occur in Minnesota are registered and that all fetal deaths are reported. The electronic system

will include cross checks to ensure the registration of all births that occur in Minnesota hospitals and that are reported electronically. Only hospitals that do not report electronically will be required to submit monthly reports

Hospitals that file documentation of birth on the electronic system will no longer be required to submit this report. Currently, 97% of births that occur in Minnesota are reported electronically. Since MDH anticipates the same level of participation in the new electronic system, the majority of hospitals will be exempt from this requirement.

#### **4601.0900 DELAYED BIRTH REGISTRATION.**

This part is based on Minnesota Statutes, section 144.217, and modeled after Regulations 4.6 (b) and 4.7 on page 23 of the Model State Vital Statistics Act.

This part replaces parts 4600.2600, Delayed Registration of Birth, 4600.2700, Filing Delayed Registrations within Seven Years of Birth, and 4600.2800, Filing Delayed Registrations Seven Years or More After Birth.

#### Major Changes and Impact

This part includes a new requirement that a person must demonstrate tangible interest when filing documentation of birth for a delayed registration of birth. Minnesota Statutes, section 144.225, subdivision 7, lists the people who have a tangible interest. Since the people listed in subpart 1 who may file documentation of birth for a delayed registration of birth are included in the list in Minnesota Statutes, section 144.225, subdivision 7, of those who have tangible interest, it should be a minor step for them to demonstrate tangible interest as required by part 4601.2600.

The form used to file documentation of birth will no longer include signature requirements. The requirement for the physician's or other attendant's signature is maintained through the notarized statement requirements in subpart 3, items B and C. This part includes clear direction on what is required to file documentation of birth for a delayed registration rather than leaving it to the discretion of the registrar and describes more fully the documentation that must be provided to establish the facts. Items F and G in subparts 3 and 4 offer the person an appeal process if the local registrar or the State Registrar declines to register the birth because of insufficient documentation. These changes clarify the process.

#### **4601.1000 BIRTH RECORD AMENDMENTS.**

This part replaces the language in parts 4600.3400, Amendments; 4600.3500, Request for Alteration; and 4600.3700, Evidence Required that apply to birth record amendments.

#### Major Changes and Impact

The proposed language in subpart 1 creates a more open, yet more secure process.

The current rules limit who may request amendments during the first year, expanding the list only after the first year. In the proposed language, the person who may request an amendment

no longer depends on when the amendment is being requested. This creates a more open process.

The process is made more secure by adding the requirement that the requester of the amendment demonstrate tangible interest. Minnesota Statutes, section 144.225, subdivision 7, lists the people who have a tangible interest. Since the people listed in subpart 1 who may request an amendment are included in the list in Minnesota Statutes, subdivision 7 who have tangible interest, it should be a minor step for them to demonstrate tangible interest as required by part 4601.2600.

Once a complete birth record is filed, there will be a period of up to 45 days prior to the issuance of the first certified birth certificate that the birth record will not be considered registered. During this period, corrections by a parent or the entity that filed the record may be made on the record. This will improve the accuracy of the birth data, and will result in the need for fewer amendments to the birth record in the future. MDH plans to facilitate corrections during this period by generating parent notices electronically. The parent notice will be mailed to parents when a record is filed so that the parent can verify the accuracy of the data provided on the civil registration portion of the birth record within that 45 day period.

Documentation of the requested amendment is required if the amendment is requested more than 45 days after filing, after the issuance of the first certified birth certificate, or if the changes requested within 45 days are more than corrections by the parent or hospital. In the current rules, documentation is required after one year. The change in this requirement is a fraud counter measure because it will reduce the number of certified birth records that display different information. This should also lessen the frequency of incidental amendments such as changing the name of a child back and forth.

The characteristics of the required documentation are described more specifically but are not related to a specific data item. This will promote consistency and still allow registrars to stay current. A registrar is required to ensure that the documentation provided meets the requirements of the rules and to offer an appeal process to the person requesting the amendment if the local registrar or the State Registrar refuses to amend the record. This part clarifies the process, especially identifying actions to take if the requirements of the rules are not met.

Amendments to birth records based on a court order will only be made if the court order specifically directs a registrar to change the birth record. The purpose of this subpart 7 is to ensure that the birth record is a true record of the birth of an individual and that the record is changed only when the change is explicitly directed. Requiring a court order to specifically direct a registrar to amend the birth record is a change in practice. Education of State Registrar staff, local registrars, the public, and the court system will be needed.

The language in subpart 8 is updated to be consistent with statutory requirements for establishing paternity and including the father's information on the birth record. Since current practice



follows the applicable statutes, there should be no impact.

A new process is added in subpart 10 that allows the correction of errors by the State Registrar. The State Registrar may receive notification that the information may be inaccurate from several sources (e.g., the informant, an insurance company, another state, the Social Security Administration, or the National Center for Health Statistics). In this subpart, the State Registrar assumes the responsibility to correct or validate the information and notes that if errors cannot be corrected, a certified copy will not be issued, which clarifies the process.

A new process in subpart 11 allows for the amendment of a replaced record. Occasionally, when adopted children are reunited with their birth families, they may wish to add the father's name or make other changes to the original birth record that was replaced when the adoption occurred. There is no legal basis to deny an amendment to the original birth record if the registrant and each parent named on the birth record agree to the amendment. The replacement record remains the official legal record unless the adoption is rescinded. This subpart codifies a recent change in practice.

#### **4601.1100 REQUIREMENTS FOR DOCUMENTS SUBMITTED.**

This part replaces part 4600.3800, Documents.

##### Major Changes, Purpose, and Impact

The revised language includes requirements for documents submitted that are more specific and reflect current practice.

#### **4601.1200 SUMMARY OF DOCUMENTATION SUBMITTED.**

This part replaces the language in parts 4600.4000, Abstract of Documentation Required and 4600.3200, Preservation of Delayed Registration Evidence that applies to maintaining summary descriptions of documents submitted to support a registration or an amendment.

##### Major Changes and Impact

This part includes changes that update language and format for readability and to reflect the use of the electronic system of the State Registrar. The centralized electronic system will have a mechanism to track amendments and, when appropriate, a brief note will appear on the standard output format to indicate when the record was amended, the item(s) amended, and the basis for the amendment (part 4601.2525, Requirements for Certified Birth Certificate, subpart 2, and 4601.2550, Requirements for Certified Death Certificates, subpart 3).

#### **4601.1300 REPLACEMENT BIRTH RECORD.**

This part replaces parts 4600.1500 Legitimacy, 4600.4600 Replacement Certificate, 4600.4700 Adoption, 4600.4800 Legitimation, and 4600.4900 Adjudication.

##### Major Changes and Impact

Subpart 1 replaces current language with references to the appropriate section in Minnesota

Statutes. Subpart 2 provides further clarification of the fields on the birth record that may be changed when a replacement record is created. The language about changing the child's surname in item A, subitem 3 intentionally repeats the direction in Minnesota Statutes, section 144.213, subdivision 3 because this has been a source of confusion for staff preparing replacement records. Because the birth mother is the subject of private health information on the original birth record and some of the civil registration information may identify the birth mother, subpart 2, item A, subitem 2 includes the provision that if the birth mother is not named as a parent on the replacement birth record, health information and any civil registration information that would identify the birth mother will not be include on the replacement record.

Adoption and paternity establishment issues are dynamic topics. These changes clarify the replacement record process, eliminate current conflicts, and reduce the potential for future conflicts between rules and statutes.

#### **4601.1400 EXPUNGEMENT OF BIRTH RECORDS.**

This part replaces the language in parts 4600.0600, Falsified Records, and 4600.2900, Cancellation of Records that applies to cancellation of birth records.

##### Major Changes and Impact

Canceled records will no longer be replaced. A record will be expunged only if the birth did not occur in Minnesota and if the record was not created according to Minnesota Statutes 144.218, subdivision 2, for a person who was born in a foreign country and adopted in Minnesota. If a record is in error, it will be corrected according to part 4601.1000. This part and part 4601.1000, subpart 10 (Corrections and amendments by state registrar), clarify process and reflect current practice.

#### **4601.1500 DOCUMENTATION OF DEATH.**

This part replaces part 4600.1700, Death Certificate.

##### Major Changes and Impact

The language in part 4600.1700 is included in this part. The language is revised to reflect use of a centralized electronic system. Currently, funeral directors provide demographic information and work with the physicians to obtain cause of death information. The record is not filed until all information is provided. Within the electronic system of the State Registrar, the current process will change slightly. Fact of death and demographic information will be reported to MDH by the funeral directors or their staff. The fact of death and demographic information will be used to issue burial/transit permits and a "short form" of the certified death certificate (does not include cause of death information). MDH will work with the funeral directors and physicians to obtain cause of death information. Once that information has been obtained, a "long form" of the certified death certificate (includes cause of death information) may be issued.

The language in this part has been revised to reflect current practice. This part is also updated to

reflect the use of the electronic system of the State Registrar but not to preclude a manual process. Under the proposed rules, MDH will assist the funeral director in obtaining the cause of death information from the physician but the funeral director's role has not changed.

#### **4601.1600 COLLECTING AND PROVIDING DOCUMENTATION OF DEATH**

This part replaces part 4600.1900, Completion of Death Certificate.

##### Major Changes and Impact

The language from part 4600.1900 Completion of Death Certificate is revised and included in this part, which is retitled to indicate that this describes the collection and provision of the documentation of death to the registrar by the person who is in charge of the disposition of the body (e.g., funeral directors). The purpose of the revision is to reflect the use of a centralized electronic system where the physician will have access to the system to directly enter the cause of death information and emphasize the cooperation of the State Registrar with the funeral directors to collect the cause of death information from the physician.

This part reflects current practice and updates language to reflect the use of the electronic system of the State Registrar but not to preclude a manual process. Under the proposed rules, MDH will assist the funeral director in obtaining the cause of death information from the physician but the funeral director's role has not changed.

#### **4601.1700 PLACE AND TIME OF DEATH.**

This part replaces the language in part 4600.0800, Recording of Information, subpart 2, that applies to place and time of death.

##### Major Changes and Impact

Language is reworded to clarify what is considered the time and place of death when the actual time and place of death are unknown. The language is consistent with current practice and with Section 13, Death Registration, on page 7 of the Model State Vital Statistics Act and Regulations.

#### **4601.1800 PROVIDING CAUSE OF DEATH INFORMATION.**

This part replaces parts 4600.2100, Physician in Attendance, and 4600.2200, Medical Certification.

##### Major Changes and Impact

The revisions to this part are to clarify who can provide cause of death data and to more accurately reflect current practice. A definition of physician has been added (4601.0100 Definitions, subpart 19). The language in part 4600.2100 is revised and included in this part. There is no change in reporting requirements.

#### **4601.1900 MONTHLY FUNERAL ESTABLISHMENT REPORT.**

This part replaces part 4600.2400, Monthly Report of Deaths, as it applies to funeral

establishments.

#### Changes, Purpose, Impact

Reports required from funeral establishments not reporting through the electronic system are included in this part and reflect current practice. Funeral establishments are also required to notify the State Registrar of fetal deaths under part 4601.2300 Fetal Death Notification.

The purpose of these reports and notifications is to help ensure that all births and deaths that occur in Minnesota are registered and that all fetal deaths are reported. The electronic system will include cross checks to ensure that all deaths that are reported electronically are registered. Only funeral establishments that do not report electronically will be required to submit monthly reports.

Funeral Establishments that file documentation of death on the electronic system will no longer be required to submit this report. Currently, there is no electronic reporting of deaths available to funeral establishments. MDH anticipates that the majority of the large funeral establishments will participate in the new electronic system and will be exempt from this requirement.

#### **4601.2000 DOCUMENTATION OF DEATH; DELAYED REGISTRATION OF DEATH.**

This part replaces parts 4600.3000, Delayed Registrations of Death and 4600.3100 Filing Delayed Death Registration, and the language in part 4600.3700 Evidence Required that applies to filing documentation of death for a delayed registration of death.

#### Major Changes and Impact

Filing documentation of death for a delayed registration of death will not be processed any differently than filing at the time of death unless the required information cannot be provided. Changes clarify the process and reflect current practice.

#### **4601.2100 DEATH RECORD AMENDMENTS.**

This part replaces the language in parts 4600.0600, Falsified Records, 4600.2900, Cancellation of Records, 4600.3400, Amendments, and 4600.3500, Request for Alteration, that applies to death record amendments.

#### Major Changes and Impact

This part represents a major change in the processing of amendments to the demographic and fact of death information on death records. Currently, during the first year, an amendment is made through the funeral director who filed the original death record. The funeral director's only criteria for approving and filing the amendment is that "the facts appear to be true." As long as a registrar receives the funeral director's request for the amendment in writing, the amendment is made. Requests for changes from anyone other than the person who filed the original death record may only be accepted after one year and are limited to the informant or the nearest lineal relative.

In the proposed language, a correction may be made easily before the record is registered by the informant or by the person who filed the original documentation of death (subpart 2). After the record is registered, any person may request an amendment (subpart 1) by choosing one of the options listed in subparts 3 to 6.

The person may request the amendment through the informant, the funeral director, a local registrar, or the State Registrar.

Since the informant is the original source of the information, a change can be made if the informant agrees. This process allows the informant to participate so that a family member, who is the informant, may make corrections on the death record without undue administrative burden and red tape. By providing other ways to amend a death record, the process does not require the informant's participation. Requiring the informant's participation could be an unwelcome intrusion during a time when family members are grieving. Because MDH does not collect the address of the informant, MDH cannot provide more than the name of an informant to a person requesting an amendment. MDH's does not collect the address of the informant because:

- 1) death records are not updated so the address of the informant may become invalid quickly. Funeral homes and funeral directors are licensed in Minnesota and must provide MDH with a current address. MDH has found that it is easier and more reliable to contact the funeral director or funeral home that filed the death record if there are questions about the information provided; and
- 2) all of the information on the death record is classified as public data. Collecting the address of the informant would place MDH in the position of being required to release the address to anyone who asked for it. Since the address is not crucial information for the death registration process, MDH prefers not to collect public information when the release of that information may lead to unwelcome intrusions during a time when families are grieving.

If the person chooses to or if the informant and/or funeral director choose not to participate in the amendment process, there is an opportunity for the person requesting the amendment to provide legal documentation of the accuracy of the requested change.

The rules identify certain circumstances when the person must request the amendment through the State Registrar and provides a basis for the State Registrar's evaluation of the request. Subpart 7 outlines the factors the State Registrar must consider. The first two factors relate specifically to the characteristics of the documentation provided. The State Registrar will consider the same requirements for documents submitted as described in part 4601.1100 and documents such as those listed in subpart 5, item B. However, the State Registrar may accept substitutes if the person requesting the amendment can demonstrate that the original documents are not available but the documentation presented supports the requested amendment.

The third, fourth, and fifth factors relate to the impact of the requested amendment. Certain

fields on the death record (subpart 5, item A, subitem 2) may impact the legal use of a certificate such as the collection of an inheritance, social security benefits, or the ability to settle an estate. Some fields may impact verifying the identity of the deceased and the fact of death. Because of their legal importance, the State Registrar may require additional documentation if changes to these fields are requested and the documentation listed in subpart 5, item B is not available.

Occasionally, changes are requested to very old records. Under current plans, MDH will transfer death records to the Minnesota Historical Society (MHS) once the records are 40 years old. If an amendment is requested to a record that has been transferred to MHS, the State Registrar may need to consider the impact of that amendment on the historical use of the record and whether amendments to these records will be part of the agreement with MHS.

The ability of the State Registrar to evaluate amendments requested with special circumstances is an important customer service because not all situations can be foreseen and written into the rules. The State Registrar can provide some flexibility for the person requesting the amendment while continuing to protect the accuracy, integrity, and validity of the death records.

The process defined in this part will improve the death record amendment process in three ways:

- 1) allows an open process that includes alternatives and an appeal process to the person requesting the amendment;
- 2) gives registrars and others involved clear direction in processing amendments; and
- 3) give informants and funeral directors the opportunity to control their involvement.

Limiting approval of amendments to cause of death information to the physician who originally provided the information, a coroner, or a medical examiner is consistent with current practice (subpart 9).

Subpart 8 allows correction by the State Registrar. Since notification that the information may be inaccurate may come from several sources (e.g., the informant, an insurance company, another state, the Social Security Administration, or the National Center for Health Statistics), the State Registrar assumes the responsibility to correct or validate the information and notes that if errors cannot be corrected, a certified copy will not be issued. Notification provisions are eliminated because of the difficulty with maintaining valid addresses for registrants. The most reliable and current addresses are those of funeral homes who are identified in the death record as the entity who originally filed the documentation of death.

Language in the current rules is ambiguous and requires discretion without clear direction or objective evaluation criteria. The changes proposed in this part clarify the process and provide specific direction and evaluation criteria.

#### **4601.2200 FETAL DEATH REPORTING.**

This part replaces the language in parts 4600.0800, Recording of Information, subpart 2,

4600.1400, Disposition of Fetal Remains, and 4600.1800, Fetal Death Report that applies to fetal death reporting.

#### Changes, Purpose, Impact

Language from part 4600.1800, Fetal Death Report is revised and included in subpart 1. The responsibility for reporting fetal deaths is shifted to the medical community because:

- 1) medical information similar to the information requested for the birth record is requested on the report;
- 2) approximately 98% of the fetal deaths reported occur in hospitals; and
- 3) the process will be consistent with the process suggested by NCHS and CDC.

Subpart 2 clarifies who must file a fetal death report if the fetus is delivered in a moving conveyance. The monthly institution report described in subpart 3 is essentially the same report for fetal deaths as described in the rule by rule analysis for part 4601.0800, Monthly Report of Births.

Subpart 4 allows corrections of fetal death reports and subpart 5 includes the acknowledgment that the fetal death report is a statistical report, not a registration of fetal death, which reflects current practice and is consistent with the process suggested by NCHS and CDC (Model State Vital Statistics Act and Regulations, Regulation 8. Disposition of Reports of Fetal Death and Induced Termination of Pregnancy).

The change in the reporting responsibilities is delayed until January, 2001. This delay will facilitate a hospital's ability to accept this new responsibility because, by January, 2001, the electronic system of the State Registrar will be available. The electronic system includes a fetal death reporting application that will allow the hospitals to complete and transmit these data electronically.

The changes to this part represent a reporting change for hospitals but, because hospitals currently provide the medical data on the fetal death report and will be able to report electronically, the impact will be minimal.

#### **4601.2300 FETAL DEATH NOTIFICATION.**

This is a new part effective the same time as part 4601.2200. When the fetal death reporting requirement changes from the person responsible for the disposition of the remains to the medical community, funeral homes will provide an important cross check by notifying MDH of fetal deaths. When a funeral director reports that the funeral home has disposed of the remains of a fetal death, then MDH can ensure that a report for that fetal death was filed according to part 4601.2300.

Since funeral directors are accustomed to providing reports and currently file the fetal death report, fetal death notification is a reduction in responsibility and may be done electronically.

#### **4601.2400 EXPUNGEMENT OF DEATH AND FETAL DEATH RECORDS.**

This part replaces the language in parts 4600.0600, Falsified Records, and 4600.2900, Cancellation of Records that applies to cancellation of death and fetal death records.

#### Major Changes and Impact

Canceled records will no longer be replaced. A record will be expunged only if the death (including fetal death) did not occur in Minnesota. If a record is in error, it will be corrected according to part 4601.2100 or 4601.2200.

#### **4601.2500 REQUIREMENTS FOR CERTIFIED BIRTH OR DEATH CERTIFICATE, 4601.2525 REQUIREMENTS FOR CERTIFIED BIRTH CERTIFICATE and 4601.2550 REQUIREMENTS FOR CERTIFIED DEATH CERTIFICATE**

These parts replace the language in parts 4600.3000 Delayed Registrations of Death, and 4600.5200 Foreign Births that apply to notations on certified birth and death certificates.

These new parts establish a standardized format for a certified birth or death certificate as required by Minnesota Statutes, section 144.225, subdivision 8, which provides:

Standardized format for certified birth and death certificates. No later than July 1, 2000, the commissioner shall develop a standardized format for certified birth certificates and death certificates issued by state and local registrars. The format shall incorporate security features in accordance with this section. The standardized format must be implemented on a statewide basis by July 1, 2001.

4601.2500, Requirements for Certified Birth or Death Certificate, subparts 1 to 3 define specific requirements for security paper, the State Registrar's signature, and the State of Minnesota seal. Security paper characteristics and the data requirements in parts 4601.2525 and 4601.2550 were developed through discussions of a subcommittee of the Minnesota Association of County Officers Advisory Committee who made recommendations to the State Registrar and the Vital Records Rules Advisory Committee.

In determining which data items from the birth and death records to include on the certified birth or death certificate, MDH considered the following:

- 1) which data items are required for the legal uses of the certificate (e.g., to claim Social Security Administration benefits, apply for a passport, enroll for school, apply for insurance coverage, claim insurance benefits, settle estates, etc.);



- 2) which data items are consistently available on birth records for births that occurred from 1935 to current;
- 3) which data items are currently used for additional information (e.g., name of the funeral home and the name and address of the physician who provided the cause of death data); and
- 4) that limiting the data items on the standardized format will encourage more limited use of certified birth and death certificates and encourage increased use of non-certified copies of birth and death records when appropriate, thereby reducing the potential for fraud.

For ease of use, two basic assumptions of all discussions about security paper were that:

- 1) the same paper will be used for both certified birth and death certificates; and
- 2) the paper will be standard letter size (8 1/2" by 11").

The discussion on the size and type of security paper included using a sheet of paper that was divided by perforation into 2 sections. For certified birth certificates, the top section would be the standardized format and the bottom section would be a birth card. An alternative was that the bottom section would be a receipt. For certified death certificates, the top section would be fact of death and the bottom section cause of death. MDH eliminated the idea of perforated certificates for the following reasons:

- 1) perforation would require certification by the State Registrar on both sections of the paper;
- 2) the use of birth cards is considered a fraud issue by law enforcement agencies because it encourages people to carry identifying documents in purses and wallets where the documents can be easily stolen;
- 3) some entities will not accept birth cards in lieu of a more standard certified birth certificate (please see the letter from State Registrar of Idaho attached as Appendix F);
- 4) concern that the cause of death portion of the certified death certificate may easily detach from the certificate creating an increased need for reissuing certificates;
- 5) pending federal guidelines do not include the use of birth cards or perforated paper; and
- 6) the space on the paper needed to print all required data items, notes, the certification statement, the State Registrar's signature.

Notations that will be included in the standardized format for birth records include:

- 1) amendments to birth records to be noted on a certified birth certificate (part 4601.2525, subpart 2);
- 2) notations of special circumstances including foreign adoption birth records (part 4601.2525, subpart 4), infants of unknown parentage (4601.2525, subpart 5), and a delayed registration of birth (4601.2525, subpart 6); and
- 3) notations that the registrant is deceased (4601.2525, subpart 3).

These notations reflect current practice and alert entities who require certified birth certificates for legal purposes of special circumstances of the birth or changes to the birth record since the birth. Notation of amendments will also be included for death records (4601.2550, subpart 3).

Standard format is a new statutory requirement. There are practical concerns such as the cost and ease of use of security paper. The language in this part provides a framework for resolving concerns on an ongoing basis.

The effective date reflects the effective date in Minnesota Statutes, section 144.225, subdivision 8.

#### **4601.2600 TANGIBLE INTEREST.**

This is a new part establishing standards for the demonstration of tangible interest as required by Minnesota Statutes, section 144.225, subdivision 7, which provides:

Certified copy of birth or death certificate. The state or local registrar shall issue a certified copy of a birth or death certificate to an individual upon the individual's proper completion of an affidavit provided by the commissioner:

- (1) to a person who has a tangible interest in the requested certificate. A person who has a tangible interest is:
  - (i) the subject of the certificate;
  - (ii) a child of the subject;
  - (iii) the spouse of the subject;
  - (iv) a parent of the subject, unless the parent is a birth parent whose parental rights have been terminated;
  - (v) the legal custodian or guardian of the subject;
  - (vi) a personal representative of the estate of the subject or a successor of the subject, as defined in section 524.1-201, if the subject is deceased;
  - (vii) a representative authorized by a person under clauses (1) to (3); or
  - (viii) a person who demonstrates that a certified copy of the certificate is necessary for the determination or protection of a personal or property right, pursuant to rules adopted by the commissioner;
- (2) to any local, state, or federal governmental agency upon request if the certified certificate is necessary for the governmental agency to perform its authorized duties. An authorized governmental agency includes the department of human services, the department of revenue, and the United States Immigration and Naturalization Service; or
- (3) pursuant to a court order issued by a court of competent jurisdiction. For purposes of this section, a subpoena does not constitute a court order.

The purpose of this part is to provide clear instruction to registrars who must require that persons requesting certified birth and death certificates demonstrate tangible interest.

Requirements of this part and recommendation for a technical amendment to the above subdivision were developed through discussions of a subcommittee of the Minnesota Association of County Officers Advisory Committee who made recommendations to the State Registrar and the Vital Records Rules Advisory Committee.

The requirements and language of this part balance requiring enough information to adequately demonstrate tangible interest with simplicity and flexibility so that the process of demonstrating tangible interest will be fast and simple for the majority of people. For a person who cannot readily meet the identification requirements, clear, workable alternatives are established.

MDH anticipates that there will be a transition period for the public when Minnesota Statutes, section 144.225, subdivision 7, becomes effective on August 1, 2000. Currently, for the majority of birth records and all death records, no identification is required to obtain a certified birth or death certificate. Requiring a signature on a statement declaring tangible interest and providing documentation of identity is an addition of two extra steps in the process of receiving a certified birth or death certificate. This part provides clear coherent instructions for the state and local registrars that will facilitate a fast and simple process.

The August 1, 2000 effective date reflects the effective date of Minnesota Statutes, section 144.225, subdivision 7.

## CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

\_\_\_\_\_

Date

\_\_\_\_\_

Name, Title