

**Federal Trade Commission**  
**Funeral Rule**  
**16 C.F.R. §§ 453.1 – 453.9**

**Code of Federal Regulations**  
**Title 16 - Commercial Practices**  
**Chapter I. Federal Trade Commission**  
**Subchapter D. Trade Regulation Rules**  
**Part 453. Funeral Industry Practices**

Authority: 15 U.S.C. 57a(a); 15 U.S.C. 46(g); 5 U.S.C. 552.  
Source: 59 FR 1611, Jan. 11, 1994, unless otherwise noted

**§ 453.1 Definitions.**

(a) *Alternative container.* An “alternative container” is an unfinished wood box or other non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of fiberboard, pressed-wood, composition materials (with or without an outside covering) or like materials.

(b) *Cash advance item.* A “cash advance item” is any item of service or merchandise described to a purchaser as a “cash advance,” “accommodation,” “cash disbursement,” or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(c) *Casket.* A “casket” is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material, and ornamented and lined with fabric.

(d) *Commission.* “Commission” refers to the Federal Trade Commission.

(e) *Cremation.* “Cremation” is a heating process which incinerates human remains.

(f) *Crematory.* A “crematory” is any person, partnership or corporation that performs cremation and sells funeral goods.

(g) *Direct cremation.* A “direct cremation” is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

(h) *Funeral goods.* “Funeral goods” are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(i) *Funeral provider.* A “funeral provider” is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.

(j) *Funeral services.* “Funeral services” are any services which may be used to:

- (1) Care for and prepare deceased human bodies for burial, cremation or other final disposition; and
- (2) Arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

(k) *Immediate burial.* An “immediate burial” is a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

(l) *Memorial service.* A “memorial service” is a ceremony commemorating the deceased without the body present.

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(m) *Funeral ceremony.* A “funeral ceremony” is a service commemorating the deceased with the body present.

(n) *Outer burial container.* An “outer burial container” is any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

(o) *Person.* A “person” is any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(p) *Services of funeral director and staff.* The “services of funeral director and staff” are the basic services, not to be included in prices of other categories in § 453.2(b)(4), that are furnished by a funeral provider in arranging any funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits, and placing obituary notices.

**§ 453.2 Price disclosures.**

(a) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

(b) Preventive requirements. To prevent these unfair or deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(b)(1), funeral providers must:

(1) Telephone price disclosure. Tell persons who ask by telephone about the funeral provider's offerings or prices any accurate information from the price lists described in paragraphs (b)(2) through (4) of this section and any other readily available information that reasonably answers the question.

(2) Casket price list.

(i) Give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider must offer the list upon beginning discussion of, but in any event before showing caskets. The list must contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make a casket price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider's place of business and a caption describing the list as a “casket price list.”

(3) Outer burial container price list.

(i) Give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider must offer the list upon beginning discussion of, but in any event before showing the containers. The list must contain at least the retail prices of all outer burial containers offered which do not

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require special ordering, enough information to identify each container, and the effective date for the prices listed. In lieu of a written list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider's place of business and a caption describing the list as an "outer burial container price list."

(4) General price list.

(i)(A) Give a printed or typewritten price list for retention to persons who inquire in person about the funeral goods, funeral services or prices of funeral goods or services offered by the funeral provider. The funeral provider must give the list upon beginning discussion of any of the following:

- (1) The prices of funeral goods or funeral services;
- (2) The overall type of funeral service or disposition; or
- (3) Specific funeral goods or funeral services offered by the funeral provider.

(B) The requirement in paragraph (b)(4)(i)(A) of this section applies whether the discussion takes place in the funeral home or elsewhere. Provided, however, that when the deceased is removed for transportation to the funeral home, an in-person request at that time for authorization to embalm, required by § 453.5(a)(2), does not, by itself, trigger the requirement to offer the general price list if the provider in seeking prior embalming approval discloses that embalming is not required by law except in certain special cases, if any. Any other discussion during that time about prices or the selection of funeral goods or services triggers the requirement under paragraph (b)(4)(i)(A) of this section to give consumers a general price list.

(C) The list required in paragraph (b)(4)(i)(A) of this section must contain at least the following information:

- (1) The name, address, and telephone number of the funeral provider's place of business;
- (2) A caption describing the list as a "general price list"; and
- (3) The effective date for the price list;

(ii) Include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:

(A) Forwarding of remains to another funeral home, together with a list of the services provided for any quoted price;

(B) Receiving remains from another funeral home, together with a list of the services provided for any quoted price;

(C) The price range for the direct cremations offered by the funeral provider, together with:

- (1) A separate price for a direct cremation where the purchaser provides the container;

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- (2) Separate prices for each direct cremation offered including an alternative container; and
  - (3) A description of the services and container (where applicable), included in each price;
  - (D) The price range for the immediate burials offered by the funeral provider, together with:
    - (1) A separate price for an immediate burial where the purchaser provides the casket;
    - (2) Separate prices for each immediate burial offered including a casket or alternative container; and
    - (3) A description of the services and container (where applicable) included in that price;
  - (E) Transfer of remains to funeral home;
  - (F) Embalming;
  - (G) Other preparation of the body;
  - (H) Use of facilities and staff for viewing;
  - (I) Use of facilities and staff for funeral ceremony;
  - (J) Use of facilities and staff for memorial service;
  - (K) Use of equipment and staff for graveside service;
  - (L) Hearse; and
  - (M) Limousine.
- (iii) Include on the price list, in any order, the following information:
- (A) Either of the following:
    - (1) The price range for the caskets offered by the funeral provider, together with the statement: “A complete price list will be provided at the funeral home.”; or
    - (2) The prices of individual caskets, disclosed in the manner specified by paragraph (b)(2)(i) of this section; and
  - (B) Either of the following:
    - (1) The price range for the outer burial containers offered by the funeral provider, together with the statement: “A complete price list will be provided at the funeral home.”; or
    - (2) The prices of individual outer burial containers, disclosed in the manner specified by paragraph (b)(3)(i) of this section; and
  - (C) Either of the following:
    - (1) The price for the basic services of funeral director and staff, together with a list of the principal basic services provided for any quoted price and, if the charge cannot be declined by the purchaser, the

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statement: “This fee for our basic services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)”. If the charge cannot be declined by the purchaser, the quoted price shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase “and overhead” after the word “services”; or

(2) The following statement: “Please note that a fee of (specify dollar amount) for the use of our basic services is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include (specify).” The fee shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase “and overhead” after the word “services.” The statement must be placed on the general price list together with the casket price range, required by paragraph (b)(4)(iii)(A)(1) of this section, or together with the prices of individual caskets, required by (b)(4)(iii)(A)(2) of this section.

(iv) The services fee permitted by § 453.2(b)(4)(iii)(C)(1) or (C)(2) is the only funeral provider fee for services, facilities or unallocated overhead permitted by this part to be non-declinable, unless otherwise required by law.

(5) Statement of funeral goods and services selected.

(i) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) The funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) Specifically itemized cash advance items. (These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.); and

(C) The total cost of the goods and services selected.

(ii) The information required by this paragraph (b)(5) may be included on any contract, statement, or other document which the funeral provider would otherwise provide at the conclusion of discussion of arrangements.

(6) Other pricing methods. Funeral providers may give persons any other price information, in any other format, in addition to that required by § 453.2(b)(2), (3), and (4) so long as the statement required by § 453.2(b)(5) is given when required by the rule.

**§ 453.3 Misrepresentations.**

(a) Embalming provisions.

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires that a deceased person be embalmed when such is not the case;

(ii) Fail to disclose that embalming is not required by law except in certain special cases, if any.

(2) Preventive requirements. To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in §§ 453.4(b)(1) and 453.5(2), funeral providers must:

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(i) Not represent that a deceased person is required to be embalmed for:

(A) Direct cremation;

(B) Immediate burial; or

(C) A closed casket funeral without viewing or visitation when refrigeration is available and when state or local law does not require embalming; and

(ii) Place the following disclosure on the general price list, required by § 453.2(b)(4), in immediate conjunction with the price shown for embalming: “Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.” The phrase “except in certain special cases” need not be included in this disclosure if state or local law in the area(s) where the provider does business does not require embalming under any circumstances.

(b) Casket for cremation provisions--

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires a casket for direct cremations;

(ii) Represent that a casket is required for direct cremations.

(2) Preventive requirements. To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(a)(1), funeral providers must place the following disclosure in immediate conjunction with the price range shown for direct cremations: “If you want to arrange a direct cremation, you can use an alternative container. Alternative containers encase the body and can be made of materials like fiberboard or composition materials (with or without an outside covering). The containers we provide are (specify containers).” This disclosure only has to be placed on the general price list if the funeral provider arranges direct cremations.

(c) Outer burial container provisions--

(1) Deceptive acts or practices. In selling or offering to sell funeral goods and funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local laws or regulations, or particular cemeteries, require outer burial containers when such is not the case;

(ii) Fail to disclose to persons arranging funerals that state law does not require the purchase of an outer burial container.

(2) Preventive requirement. To prevent these deceptive acts or practices, funeral providers must place the following disclosure on the outer burial container price list, required by § 453.2(b)(3)(i), or, if the prices of outer burial containers are listed on the general price list, required by § 453.2(b)(4), in immediate conjunction with those prices: “In most areas of the country, state or local law does not require that you buy a container to surround the casket in the grave. However, many cemeteries require that you have such a container so that the grave will not sink in. Either a grave liner or a burial vault will satisfy these requirements.” The phrase “in most areas of the country” need not be included in this disclosure if state or local law in the area(s) where the provider does business

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does not require a container to surround the casket in the grave.

(d) General provisions on legal and cemetery requirements--

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that federal, state, or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(2) Preventive requirements. To prevent these deceptive acts or practices, as well as the deceptive acts or practices identified in §§ 453.3(a)(1), 453.3(b)(1), and 453.3(c)(1), funeral providers must identify and briefly describe in writing on the statement of funeral goods and services selected (required by § 453.2(b)(5)) any legal, cemetery, or crematory requirement which the funeral provider represents to persons as compelling the purchase of funeral goods or funeral services for the funeral which that person is arranging.

(e) Provisions on preservative and protective value claims. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(1) Represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) Represent that funeral goods have protective features or will protect the body from gravesite substances, when such is not the case.

(f) Cash advance provisions--

(1) Deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that the price charged for a cash advance item is the same as the cost to the funeral provider for the item when such is not the case;

(ii) Fail to disclose to persons arranging funerals that the price being charged for a cash advance item is not the same as the cost to the funeral provider for the item when such is the case.

(2) Preventive requirements. To prevent these deceptive acts or practices, funeral providers must place the following sentence in the itemized statement of funeral goods and services selected, in immediate conjunction with the list of itemized cash advance items required by § 453.2(b)(5)(i)(B): "We charge you for our services in obtaining: (specify cash advance items)," if the funeral provider makes a charge upon, or receives and retains a rebate, commission or trade or volume discount upon a cash advance item.

**§ 453.4 Required purchase of funeral goods or funeral services.**

(a) Casket for cremation provisions--

(1) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider, or a crematory, to require that a casket be purchased for direct cremation.

(2) Preventive requirement. To prevent this unfair or deceptive act or practice, funeral providers must make an alternative container available for direct cremations, if they arrange direct cremations.

(b) Other required purchases of funeral goods or funeral services--

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(1) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services, it is an unfair or deceptive act or practice for a funeral provider to:

(i) Condition the furnishing of any funeral good or funeral service to a person arranging a funeral upon the purchase of any other funeral good or funeral service, except as required by law or as otherwise permitted by this part;

(ii) Charge any fee as a condition to furnishing any funeral goods or funeral services to a person arranging a funeral, other than the fees for: (1) Services of funeral director and staff, permitted by § 453.2(b)(4)(iii)(C); (2) other funeral services and funeral goods selected by the purchaser; and (3) other funeral goods or services required to be purchased, as explained on the itemized statement in accordance with § 453.3(d)(2).

(2) Preventive requirements.

(i) To prevent these unfair or deceptive acts or practices, funeral providers must:

(A) Place the following disclosure in the general price list, immediately above the prices required by § 453.2(b)(4) (ii) and (iii): “The goods and services shown below are those we can provide to our customers. You may choose only the items you desire. If legal or other requirements mean you must buy any items you did not specifically ask for, we will explain the reason in writing on the statement we provide describing the funeral goods and services you selected.” Provided, however, that if the charge for “services of funeral director and staff” cannot be declined by the purchaser, the statement shall include the sentence: “However, any funeral arrangements you select will include a charge for our basic services” between the second and third sentences of the statement specified above herein. The statement may include the phrase “and overhead” after the word “services” if the fee includes a charge for the recovery of unallocated funeral provider overhead;

(B) Place the following disclosure in the statement of funeral goods and services selected, required by § 453.2(b)(5)(i): “Charges are only for those items that you selected or that are required. If we are required by law or by a cemetery or crematory to use any items, we will explain the reasons in writing below.”

(ii) A funeral provider shall not violate this section by failing to comply with a request for a combination of goods or services which would be impossible, impractical, or excessively burdensome to provide.

**§ 453.5 Services provided without prior approval.**

(a) Unfair or deceptive acts or practices. In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for any provider to embalm a deceased human body for a fee unless:

(1) State or local law or regulation requires embalming in the particular circumstances regardless of any funeral choice which the family might make; or

(2) Prior approval for embalming (expressly so described) has been obtained from a family member or other authorized person; or

(3) The funeral provider is unable to contact a family member or other authorized person after exercising due diligence, has no reason to believe the family does not want embalming performed, and obtains subsequent approval for embalming already performed (expressly so described). In seeking approval, the funeral provider must disclose that a fee will be charged if the family selects a funeral which requires embalming, such as a funeral with viewing, and that no fee will be charged if the family selects a service which does not require embalming, such as direct cremation or immediate burial.

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(b) Preventive requirement. To prevent these unfair or deceptive acts or practices, funeral providers must include on the itemized statement of funeral goods and services selected, required by § 453.2(b)(5), the statement: “If you selected a funeral that may require embalming, such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you did not approve if you selected arrangements such as a direct cremation or immediate burial. If we charged for embalming, we will explain why below.”

**§ 453.6 Retention of documents.**

To prevent the unfair or deceptive acts or practices specified in §§ 453.2 and 453.3 of this rule, funeral providers must retain and make available for inspection by Commission officials true and accurate copies of the price lists specified in §§ 453.2(b)(2) through (4), as applicable, for at least one year after the date of their last distribution to customers, and a copy of each statement of funeral goods and services selected, as required by § 453.2(b)(5), for at least one year from the date of the arrangements conference.

**§ 453.7 Comprehension of disclosures.**

To prevent the unfair or deceptive acts or practices specified in §§ 453.2 through 453.5, funeral providers must make all disclosures required by those sections in a clear and conspicuous manner. Providers shall not include in the casket, outer burial container, and general price lists, required by §§ 453.2(b)(2)-(4), any statement or information that alters or contradicts the information required by this Part to be included in those lists.

**§ 453.8 Declaration of intent.**

(a) Except as otherwise provided in § 453.2(a), it is a violation of this rule to engage in any unfair or deceptive acts or practices specified in this rule, or to fail to comply with any of the preventive requirements specified in this rule;

(b) The provisions of this rule are separate and severable from one another. If any provision is determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

(c) This rule shall not apply to the business of insurance or to acts in the conduct thereof.

**§ 453.9 State exemptions.**

If, upon application to the Commission by an appropriate state agency, the Commission determines that:

(a) There is a state requirement in effect which applies to any transaction to which this rule applies; and

(b) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the state requirement.

**Counties**  
**Title 16 Pennsylvania Statutes**  
**Selected Provisions**

**Title 16 P.S. Counties**  
**The County Code**  
**Article XII. Sheriff and Coroner**

**§ 1244. Certificate of cause of death**

The coroner shall issue a certificate of cause of death in all cases referred to him by the local registrar of vital statistics, pursuant to the provisions of the act, approved June twenty-nine, one thousand nine hundred fifty-three (Pamphlet Laws 304), known as the "Vital Statistics Law of 1953"<sup>1</sup>, and in all other cases of which he has jurisdiction, if no person duly authorized by the said act certifies the cause of death.

1955, Aug. 9, P.L. 323, § 1244. Amended 1961, May 9, P.L. 197, § 1.

**Second Class County Code**  
**Article XII. Sheriff and Coroner**

**§ 4242. Certificate of cause of death**

The coroner shall issue a certificate of cause of death in all cases referred to him by the local registrar of vital statistics, pursuant to the provisions of the act, approved the twenty-first day of May, one thousand nine hundred forty-three (Pamphlet Laws 414), known as the Uniform Vital Statistics Act, and in all other cases of which he has jurisdiction, if no person duly authorized by the said act certifies the cause of death.

1953, July 28, P.L. 723, art. XII, § 1242.

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<sup>1</sup> 35 P.S. § 450.101 et seq.

**Decedents, Estates and Fiduciaries Code  
Title 20 Pennsylvania Consolidated Statutes  
Selected Provisions**

**Title 20 Pennsylvania Consolidated Statutes  
Decedents, Estates and Fiduciaries Code  
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**§ 101. Short title**

This title shall be known and may be cited as the “Probate, Estates and Fiduciaries Code.”<sup>2</sup> Each chapter herein shall be known and may be cited by its chapter heading.

1972, June 30, P.L. 508, No. 164, § 2, eff. July 1, 1972.

**HISTORICAL AND STATUTORY NOTES**

Title of Act:

An Act amending the act of November 25, 1970, (no. 230), entitled “An act codifying and compiling a part of the law of the Commonwealth,” adding provisions relating to probate, estates and fiduciaries. 1972, June 30, P.L. 508, No. 164.

Uniform Fiduciaries Act, see 7 P.S. § 6351 et seq.

**§ 102. Definitions**

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“**Clerk.**” Means the clerk of the orphans' court division of the court of common pleas.

“**Court, orphans' court, or orphans' court division.**” Means the court of common pleas exercising the jurisdiction referred to in this title through its orphans' court division.

“**Fiduciary.**” Includes personal representatives, guardians, and trustees, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the orphans' court division.

“**First complete advertisement of the grant of letters.**” In counties having no legal publication, means the first of the three times that the grant of letters is advertised in a newspaper, and, in counties having a legal publication, it means when it has been advertised, on at least one occasion, in both the newspaper and in the legal publication.

“**Foreign fiduciary.**” Means a personal representative, guardian of a minor or incapacitated person, trustee or one performing the functions of any such fiduciary, who is subject primarily to the control of the court of another jurisdiction and has not received ancillary authority in the Commonwealth.

“**Foreign guardian.**” Means a guardian, or one performing the function of a guardian, who is subject primarily to the

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<sup>2</sup> The heading of Title 20, Pennsylvania Consolidated Statutes was amended by Act 1974, Dec. 10, P.L. 816, No. 271, § 5 from “Probate, Estates and Fiduciaries Code” to “Decedents, Estates and Fiduciaries Code.”

**Decedents, Estates and Fiduciaries Code**  
**Title 20 Pennsylvania Consolidated Statutes**  
**Selected Provisions**

control of the court of another jurisdiction and has not received ancillary authority in the Commonwealth.

**“General rule or rule of court.”** A rule or order promulgated by the governing authority, as defined in 42 Pa.C.S. § 102 (relating to definitions), of the unified judicial system.

**“Guardian.”** Means a fiduciary who has the care and management of the estate or person of a minor or an incapacitated person.

**“Incapacitated person.”** Means a person determined to be an incapacitated person under the provisions of Chapter 55<sup>3</sup> (relating to incapacitated persons).

**“Letters.”** Means letters testamentary or letters of administration of any description.

**“Minor.”** Means an individual under the age of 18 years.

**“Personal representative.”** Means an executor or administrator of any description.

**“Register.”** Means the register of wills having jurisdiction of granting of letters testamentary or of administration.

**“Trust.”** Means any trust, whether testamentary or inter vivos, subject to the jurisdiction of the orphans' court division.

**“Will.”** Means a written will, codicil or other testamentary writing.

1972, June 30, P.L. 508, No. 164, § 2, eff. July 1, 1972. Amended 1972, Dec. 6, P.L. 1461, No. 331, § 1; 1976, July 9, P.L. 551, No. 135, § 1, imd. effective; 1978, April 28, P.L. 202, No. 53, § 8(1), effective in 60 days [June 27, 1978]; 1992, April 16, P.L. 108, No. 24, § 1, effective in 60 days.

**§ 305. Right to dispose of a decedent's remains**

**(a) General rule.--**The determination of the final disposition of a decedent's remains shall be as set forth in this section unless otherwise specifically provided by waiver and agreement of the person entitled to make such determination under this section, subject to the provisions of a valid will executed by the decedent and section 8611(a) (relating to persons who may execute anatomical gift).

**(b) Disposition of the remains of a deceased spouse.--**Absent an allegation of enduring estrangement, incompetence, contrary intent or waiver and agreement which is proven by clear and convincing evidence, a surviving spouse shall have the sole authority in all matters pertaining to the disposition of the remains of the decedent.

**(c) Disposition of the remains of others.--**If there is not a surviving spouse, absent an allegation of enduring estrangement, incompetence, contrary intent or waiver and agreement which is proven by clear and convincing evidence, the next of kin shall have sole authority in all matters pertaining to the disposition of the remains of the decedent.

**(d) Procedure.--**Where a petition alleging enduring estrangement, incompetence, contrary intent or waiver and agreement is made within 48 hours of the death or discovery of the body of the decedent, whichever is later, a court

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<sup>3</sup> 20 Pa.C.S.A. § 5501 et seq.

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may order that no final disposition of the decedent's remains take place until a final determination is made on the petition. Notice to each person with equal or higher precedence than the petitioner to the right to dispose of the decedent's remains and to his attorney if known and to the funeral home or other institution where the body is being held must be provided concurrently with the filing of the petition. A suitable bond may be required by the court.

(1) If the court determines that clear and convincing evidence establishes enduring estrangement, incompetence, contrary intent or waiver and agreement, the court shall enter an appropriate order regarding the final disposition which may include appointing an attorney in fact to arrange the final disposition, with reasonable costs chargeable to the estate.

(2) If two or more persons with equal standing as next of kin disagree on disposition of the decedent's remains, the authority to dispose shall be determined by the court, with preference given to the person who had the closest relationship with the deceased.

(3) If the court determines that the petition is not supported by a clear and convincing evidence, the court may award attorney fees. An award of attorney fees shall constitute a setoff against any claim by the petitioner against the estate.

**(e) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Contrary intent.” An explicit and sincere expression, either verbal or written, of a decedent adult or emancipated minor prior to death and not subsequently revoked that a person other than the one authorized by this section determine the final disposition of his remains.

“Enduring estrangement.” A physical and emotional separation from the deceased at the time of death of the person authorized by this section to determine the final disposition of the decedent's remains, which has existed for a period of time that clearly demonstrates an absence of due affection, trust and regard for the deceased.

“Next of kin.” The spouse and relatives by blood of the deceased in order that they be authorized to succeed to the deceased's estate under Chapter 21 (relating to intestate succession) as long as the person is an adult or an emancipated minor.

1998, Nov. 17, P.L. 786, No. 99, § 1, effective in 60 days.

**§ 2104. Rules of succession**

The provisions of this chapter shall be applied to both real and personal estate in accordance with the following rules:

**(1) Taking in different degrees.**--The shares passing under this chapter to the issue of the decedent, to the issue of his parents or grandparents or to his uncles or aunts or to their children, or grandchildren, shall pass to them as follows: The part of the estate passing to any such persons shall be divided into as many equal shares as there shall be persons in the nearest degree of consanguinity to the decedent living and taking shares therein and persons in that degree who have died before the decedent and have left issue to survive him who take shares therein. One equal share shall pass to each such living person in the nearest degree and one equal share shall pass by representation to the issue of each such deceased person, except that no issue of a child of an uncle or aunt of the decedent shall be entitled to any share of the estate unless there be no relatives as close as a child of an uncle or aunt living and taking a share therein, in which case the grandchildren of uncles and aunts of the decedent shall be entitled to share, but no issue of a grandchild of an uncle or aunt shall be entitled to any share of the estate.

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**(2) Taking in same degree.**--When the persons entitled to take under this chapter other than as a surviving spouse are all in the same degree of consanguinity to the decedent, they shall take in equal shares.

**(3) Whole and half blood.**--Persons taking under this chapter shall take without distinction between those of the whole and those of the half blood.

**(4) After-born persons; time of determining relationships.**--Persons begotten before the decedent's death but born thereafter, shall take as if they had been born in his lifetime.

**(5) Source of ownership.**--Real estate shall pass under this chapter without regard to the ancestor or other relation from whom it has come.

**(6) Quantity of estate.**--Any person taking real or personal estate under this chapter shall take such interest as the decedent had therein.

**(7) Tenancy in estate.**--When real or personal estate or shares therein shall pass to two or more persons, they shall take it as tenants in common, except that if it shall pass to a husband and wife they shall take it as tenants by the entireties.

**(8) Alienage.**--Real and personal estate shall pass without regard to whether the decedent or any person otherwise entitled to take under this chapter is or has been an alien.

**(9) Person related to decedent through two lines.**--A person related to the decedent through two lines of relationship shall take one share only which shall be the larger share.

**(10) Requirement that heir survive decedent for five days.**--Any person who fails to survive the decedent by five days shall be deemed to have predeceased the decedent for purposes of intestate succession and the decedent's heirs shall be determined accordingly. If the time of death of the decedent or of a person who would otherwise be an heir, or the times of death of both, cannot be determined, and it cannot be established that the person who would otherwise be an heir survived the decedent by five days, that person shall be deemed to have failed to survive for the required period. This section shall not be applied where its application would result in a taking by the Commonwealth under section 2103(6) (relating to shares of others than surviving spouse).

**(11) Intestacy following valid prior estate.**--In the event of an intestacy occurring at the termination of a valid prior estate, the identity and shares of the intestate heirs then entitled to take shall be ascertained as though the death of the testator, settlor or grantor had occurred at the time of the termination of the prior estate.

1972, June 30, P.L. 508, No. 164, § 2, eff. July 1, 1972. Amended 1976, July 9, P.L. 551, No. 135, § 4, imd. effective; 1978, April 18, P.L. 42, No. 23, § 1, effective in 60 days; 2002, May 16, P.L. 330, No. 50, § 2, effective in 60 days.

JT. ST. GOVT. COMM. COMMENT--1947

**Paragraph (1):** This appears as the first rule of descent to eliminate any question concerning the manner in which the shares shall be divided. The 1917 act refers to "representation" and to rules of representation in numerous places, including 7(d)3 (descendants of intestate), 9(d) (descendants of brothers and sisters), 11 (general rule of limitation of representation), 12(d) (issue of grandparents) and 19 (persons in the same degree of consanguinity). Much of the cumbersome language of the places referred to is now avoided by the provisions of section 3 together with this clause (1) of section 4.

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Definition of the words “by representation” is not needed because they are a term of art well known to lawyers and about which there can be no dispute except as to the top level at which the stirpital distribution starts. See 2 Blackstone 217. The definition given here covers that question.

**Paragraph (4):** No general provision is made to the effect that heirs and next of kin with this exception are determined as of the date of decedent's death because it is well established that real estate descends directly to heirs at the moment of death (*Wolfe v. Lewisburg Trust & Safe Deposit Co.*, 305 Pa. 583), and that the equitable rights of the next of kin in personalty are similarly vested at the moment of death. See *Brothers Est.*, 156 Pa.Super. 292.

**Paragraph (7):** This takes the place of section 19 of the 1917 act which reads:

“Section 19. Wherever real or personal estate shall descend to or be distributed among several persons, whether lineal or collateral heirs or kindred standing in the same degree of consanguinity to the intestate, if there shall be only one of such degree, he shall take the whole of such estate; and, if there shall be more than one, they shall take in equal shares, and, if real estate, shall hold the same as tenants in common.” Cf. Act of 1705, 1 Sm.L. 31, Section 2, 68 PS 102 [repealed].

The exception of property owned by entireties is necessary for clarity. When the whole title is received by husband and wife, as in the case of parents, they hold by the entireties: *Barati's Est.*, 89 Pitts. 84. The possibility that a question might arise when property goes to three grandparents is prevented by referring to “shares therein”. The two who are husband and wife should take their undivided interest as tenants by the entireties.

**Paragraph (8):** Since the Act of February 23, 1791, 68 PS 22, *et seq.* [repealed as to wills and inheritances in 1947; see 20 Pa.C.S. § 2501], Pennsylvania has recognized the right of aliens to dispose of and receive Pennsylvania property by will or descent, and no distinction is made between nationals of enemy or of friendly countries except as they may reside in enemy-occupied territory: *Gregg's Est.*, 266 Pa. 189, cert. den. 252 U.S. 588. This clause (7) takes the place of the Act of 1791 which is repealed in section 16(1) insofar as it relates to inheritance.

**Paragraph (9):** This is based on section 28 of the Model Probate Code. There is no similar provision in Pennsylvania law. There are no Pennsylvania cases directly in point. In *Morgan v. Reel*, 213 Pa. 81, it was held that a grandchild adopted by a grandparent could inherit as a child only, but the case turned on an interpretation of the Adoption Act and therefore is not squarely in point. Therefore it seemed advisable to make provision for cases of his kind, although they are rare. An illustration is:

A and B, brothers, marry C and D, sisters. A and C have a child X, and a third brother has a child Y. Suppose a child of B and D dies leaving only first cousins as next of kin. X would be a first cousin through both his father and his mother. Y would be a first cousin through one line only, that of his father.

JT. ST. GOVT. COMM. COMMENT--1976

These amendments are for clarification purposes.

Paragraph (10) is derived from Section 2-104 of the Uniform Probate Code. It accomplishes the result typically provided for in a will in the case of a common accident situation, in which several members of the same family are injured and die within a few days of each other.

JT. ST. GOVT. COMM. COMMENT--2002

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This is intended to both resolve possible inconsistencies in judicial authority and adopt in intestacy situations the same practical solution as was previously reached in section 2514(4) relating to the time of ascertaining the class in a gift under a will to heirs or next of kin.

Act 2002-50 legislation

Act 2002-50, § 2, added subsec. (11).

Section 14(b)(2) of 2002, May 16, P.L. 330, No. 50, effective in 60 days, provides that “[t]he amendment of 20 Pa.C.S. § 2104 shall apply to intestacies occurring on or after the effective date of this act, even if the trust became irrevocable before the effective date of this act.”

**§ 3101. Payments to family and funeral directors**

**(a) Wages, salary or employee benefits.**--Any employer of a person dying domiciled in this Commonwealth at any time after the death of the employee, whether or not a personal representative has been appointed, may pay wages, salary or any employee benefits due the deceased in an amount not exceeding \$5,000 to the spouse, any child, the father or mother, or any sister or brother (preference being given in the order named) of the deceased employee. Any employer making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and he shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

**(b) Deposit account.**--Any bank, savings association, savings and loan association, building and loan association, credit union or other savings organization, at any time after the death of a depositor, member or certificate holder, may pay the amount on deposit or represented by the certificate, when the total standing to the credit of the decedent in that institution does not exceed \$3,500, to the spouse, any child, the father or mother or any sister or brother (preference being given in the order named) of the deceased depositor, member or certificate holder, provided that a receipted funeral bill or an affidavit, executed by a licensed funeral director which sets forth that satisfactory arrangements for payment of funeral services have been made, is presented. Any bank, association, union or other savings organization making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and it shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

**(c) Patient's care account.**--When the decedent was a qualified recipient of medical assistance from the Department of Public Welfare, the facility in which he was a patient may make payment of funds, if any, remaining in the patient's care account, for the decedent's burial expenses to a licensed funeral director in an amount not exceeding \$3,500 whether or not a personal representative has been appointed. After the payment of decedent's burial expenses, the facility may pay the balance of decedent's patient's care account, as long as the payments including the payment for burial expenses does not exceed \$4,000, to the spouse, any child, the father or mother or any sister or brother (preference being given in the order named) of the deceased patient. Any facility making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and it shall not be required to see to the application thereof. Any licensed funeral director or other person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

**(d) Life insurance payable to estate.**--Any insurance company which upon the death of an individual residing in this Commonwealth owes his estate a total amount of \$11,000 or less under any policy of life, endowment, accident or health insurance, or under any annuity or pure endowment contract, may at any time after 60 days following his death pay all or any part of that amount to the spouse, any child, the father or mother or any sister or brother of the decedent (preference being given in the order named) provided that at the time of the payment no written claim for that money

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has been received at the office of the company specified in the policy or contract for the receipt of claims from any duly appointed personal representative of the decedent. Any insurance company making any payment in accordance with this section to an adult may rely on the affidavit of any of the persons named in this subsection concerning the existence and relationship of these persons and shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and the insurance company shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

**(e) Unclaimed property.--**

(1) In any case where property or funds owned by an individual who has died a resident of this Commonwealth have been reported to the Commonwealth and are in the custody of the State Treasurer as unclaimed or abandoned property, the State Treasurer, at any time after the death of the individual, shall be authorized under this section to distribute the property or to pay the amount being held in custody where all of the following conditions are present:

(i) The amount of the funds or the value of the property is \$11,000 or less.

(ii) The person claiming the property or the funds is the surviving spouse, child, mother or father, or sister or brother of the decedent, with preference given in that order.

(iii) A personal representative of the decedent has not been appointed or five years have<sup>4</sup> lapsed since the appointment of a personal representative of the decedent.

(2) Upon being presented with a claim for property owned by a decedent, the State Treasurer shall require the person claiming the property to provide all of the following prior to distributing the property or paying the amount held in custody:

(i) A certified death certificate of the owner.

(ii) A sworn affidavit under the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) setting forth the relationship of the claimant to the decedent, the existence or nonexistence of a duly appointed personal representative of the decedent and any other persons that may be entitled under this section to make a claim to the decedent's property.

(iii) Other information determined by the State Treasurer to be necessary in order to distribute property or pay funds under this section to the proper person.

(3) If the State Treasurer determines the claimant to be a person entitled to claim property of a decedent owner, the State Treasurer shall pay or distribute such property to the claimant and shall thereby be released to the same extent as if payment or distribution had been made to a duly appointed personal representative of the decedent and shall not be required to oversee the application of the payments made. Any claimant to whom payment is made shall be answerable therefore to anyone prejudiced by an improper distribution or payment.

1972, June 30, P.L. 508, No. 164, § 2, eff. July 1, 1972. Amended 1974, May 10, P.L. 282, No. 84, § 1, imd. effective; 1975, Dec. 19, P.L. 598, No. 168, § 1, imd. effective; 1976, July 9, P.L. 551, No. 135, § 15, imd. effective; 1980, July 11, P.L. 565, No. 118, § 3, effective in 60 days; 1982, Feb. 18, P.L. 45, No. 26, § 2, imd. effective; 1993, June 28, P.L.

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<sup>4</sup> "has" in enrolled bill.

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181, No. 38, § 1, imd. effective; 1994, Dec. 1, P.L. 655, No. 102, § 3, effective in 60 days; 2002, June 28, P.L. 478, No. 80, § 1, imd. effective.

JT. ST. GOVT. COMM. COMMENT--1949

**Subsection (a):** This replaces Section 49(f) of the Fiduciaries Act of 1917 [June 7, 1917, P.L. 447, No. 193], and differs from it in the following respects:

- (1) The requirement that the employer wait for thirty days is omitted.
- (2) The husband as well as the wife is included.
- (3) “*Wages or salary in an amount not exceeding two hundred and fifty dollars*” rather than “all wages ... where such wages due do not exceed two hundred and fifty dollars in amount” has been used to make it clear that \$250 of wages or salary can be paid even when the total due exceeds \$250.
- (4) “*Any child*” rather than “children” is used so that it is clear that an employer may make payment to any child. For his own protection, the employer would, of course, make payment only to an adult.
- (5) It is now clear that the employer has no obligation to determine whether letters have been granted.
- (6) No provision is made concerning payments to “undertaker, physician, boarding-house keeper, and nurse, each his or her pro rata share upon affidavit of fact furnished.” Payment to any of these can be made by the employer upon receipt of a certified copy of a decree under Section 202 where there is no spouse, child, parent, sister or brother to whom the employer can make payment under this section. Also avoided is the slight discrepancy in the order of distribution among creditors existing between Section 13 and Section 49(f) of the 1917 Act.
- (7) The words “*shall be answerable therefor to anyone prejudiced by an improper distribution*” have been included to avoid any constitutional question: cf. *Coral Gables First National Bank v. Hart*, 20 S.2d 647 (Fla.1945), annotated 44 Mich.L.R. 492.

**Subsection (a):** The words “or any accrued pension due the deceased” are added to clarify what was intended when the section was originally drafted.

JT. ST. GOVT. COMM. COMMENT--1976

This section is broadened to include all employee benefits.

JT. ST. GOVT. COMM. COMMENT--1980

Section 3101 is amended by adding subsections (b) and (c), authorizing payments not exceeding \$1,500 in the former case to the family of the decedent and, in the latter case, payments not exceeding \$1,000 from a facility in which the decedent was a patient to a licensed funeral director. In connection with subsection (b), a former version had been included in omnibus bills submitted to the 1973 and 1975 Sessions of the General Assembly. As pointed out in the [Joint State Government] Commission's report, Proposed Amendments, Probate, Estates and Fiduciaries Code, Phase II, 1973, p. 7:

This new subsection authorizes payment of bank accounts up to [1,500] to a family member without re-

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quiring that a personal representative be appointed.

Since family payments of wages, salaries and employee benefits appear to have successfully expedited small estates without known abuses, it was determined to extend this discretionary authority to banks and savings institutions to pay accounts up to [\$1,500] to family members to facilitate the closing of very small estates with minimal administration expense and delay.

In order to satisfy objections raised during committee hearings on the 1973 and 1975 legislation, a further provision was inserted allowing the financial institution to require a receipted funeral bill or an affidavit setting forth that arrangements satisfactory to a licensed funeral director have been made for payment for his services.

Subsection (c) was included at the suggestion of the Pennsylvania Association of County Affiliated Homes and the Pennsylvania Funeral Directors Association to facilitate the closing of small estates without the expense and inconvenience required to take out letters. As noted above, the payments under this subsection may not exceed \$1,000.

**JT. ST. GOVT. COMM. COMMENT--1982**

Subsection (d) is added, extending the policy expressed in subsections (b) and (c) of facilitating the closing of small estates with minimal administration expense and delay, to payment to the decedent's family by an insurance company of \$11,000 or less, including interest accrued under any policy payable to the estate.

**HISTORICAL AND STATUTORY NOTES**

Act 1974-84 increased the amount of benefit from \$1,000 to \$2,000.

Act 1975-168 increased the amount of benefit from \$2,000 to \$3,500.

Act 1976-135 substituted "Payments to family" for "Payment of wages, salary, vacation benefits to family" as section heading, and in first sentence, substituted "any employee benefits" for "any accrued vacation benefits or pension".

Act 1980-118, in subsec. (a), supplied section head and substituted "this" for "the" preceding "Commonwealth"; added subsec. (b).

Act 1982-26 changed section heading from "Payments to funeral directors"; added second sentence and in fourth sentence inserted "or other person"; added subsec. (d).

Section 13 of Act 1982, Feb. 18, P.L. 45, No. 26, provides, in part, that the amendment to this section "shall take effect immediately and shall apply to the estates of all decedents dying on or after the effective date [February 18, 1982]".

Act 1993-38, in subsec. (b), increased the savings account limit and, in subsec. (c), increased the limits for care accounts and burial expenses.

Act 1994-102, in subsec. (a) raised the maximum amount payable by employers from \$3,500 to \$5,000.

Section 10(1) of Act 1994, Dec. 1, P.L. 655, No. 102, provides:

"The amendment of 20 Pa.C.S. §§ 2101, 3101(a), 3102, 3121 and 3531 shall apply to the estates of decedents dying on

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or after the effective date of this act.”

Act 2002-80, § 1, added subsec. (e).

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**Vital Statistics Law of 1953**  
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**Article I. General Provisions**

**§ 450.101. General provisions: short title**

The short title of this act is the “Vital Statistics Law of 1953”.

1953, June 29, P.L. 304, art. I, § 101.

Title of Act:

An Act providing for the administration of a statewide system of vital statistics; prescribing the functions of the State Department of Health, the State Advisory Health Board and local registrars; imposing duties upon coroners, prothonotaries, clerks of orphans' court, physicians, midwives and other persons; requiring reports and certificates for the registration of vital statistics; regulating the disposition of dead bodies; limiting the disclosure of records; prescribing the sufficiency of vital statistics records as evidence; prescribing fees and penalties; and revising and consolidating the laws relating thereto. 1953, June 29, P.L. 304.

**§ 450.105. General provisions: definitions**

**As used in this act--**

- (1) **“Department”** means the State Department of Health.
- (2) **“Vital statistics”** includes the registration, preparation, transcription, collection, compilation, analysis and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, marital status and data incidental thereto.
- (3) **“Live birth”** means the expulsion or extraction from its mother of a product of conception, irrespective of the period of gestation, which shows any evidence of life at any moment after such expulsion or extraction.
- (4) **“Fetal death”** means the expulsion or extraction from its mother of a product of conception after sixteen (16) weeks gestation, which shows no evidence of life after such expulsion or extraction.
- (5) **“Dead body”** means (i) a lifeless human body, or (ii) such parts of a human body as permit a reasonable inference that death has occurred.
- (6) **“Fetal remains”** means the fetus expelled or extracted in the case of a fetal death as defined by this section.
- (7) **“Person in charge of interment”** means any person who places or causes to be placed a dead body or fetal remains in a grave, vault or other receptacle, or otherwise disposes thereof.
- (8) **“Physician”** means (i) a person licensed under the laws of this Commonwealth to engage as a doctor of medicine in the practice of all the branches of medicine, or (ii) a person licensed under the laws of this Commonwealth to engage in the practice of osteopathy or osteopathic surgery.
- (9) **“Immediate family member”** means grandparents, parents, siblings, grandchildren, spouses and children.

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**§ 450.501. Death and fetal death registration: certificates to be filed**

A certificate of each death or fetal death which occurs in this Commonwealth shall be filed within ninety-six (96) hours after the death or fetal death or within ninety-six (96) hours after the finding of a dead body or fetal remains. In every instance, the certificate shall be filed prior to the issuance of a permit for interment or other disposition of the dead body or fetal remains. The person in charge of interment or of removal of the dead body or fetal remains from the registration district shall file the certificate with any local registrar or the State Registrar of Vital Statistics, who shall be authorized to issue certified copies of such death.

1953, June 29, P.L. 304, art. III, § 501. Amended 1971, July 9, P.L. 213, No. 38, § 1; 2009, July 2, P.L. 52, No. 11, § 2, effective in 60 days [Aug. 31, 2009].

Records of death, see 28 Pa. Code § 1.11 et seq.

**§ 450.502. Death and fetal death registration: information for certificates**

In preparing a certificate of death or fetal death, the person in charge of interment or of removal of a dead body or fetal remains from the registration district shall obtain the required information. The following persons shall supply the information certified by their respective signatures:

(1) Personal information concerning the deceased or the fetal death shall be supplied by the person best acquainted with the facts.

(2) Subject to the limitation contained in clause (3), the medical certification, except in the event of a referral to the coroner pursuant to section five hundred three of this act, shall be supplied (i) in the case of a death, by the physician or (ii) dentist who is a staff member of an approved hospital who attended the deceased during the last illness, provided the death occurs in the hospital and the deceased had been admitted on the dental service, and (iii) in the case of a fetal death, by the attending physician.

(3) In all cases where the physician or dentist who would otherwise supply the medical certification is a member of the immediate family of the deceased, the case shall be referred to another physician or dentist who qualifies under clause (2) for a medical certification. In the event a qualified alternate physician or dentist is unavailable or unwilling to provide the medical certification required by law, the case shall be referred to the coroner of the county wherein the death occurred or to a coroner of an adjacent county. In no event shall a coroner sign a certificate of death or fetal death for a deceased who was a member of his immediate family.

1953, June 29, P.L. 304, art. V, § 502. Amended 1967, Nov. 21, P.L. 516, § 1; 1991, Dec. 20, P.L. 399, No. 46, § 3, effective in 60 days.

**§ 450.503. Death and fetal death registration: coroner referrals**

The local registrar or person in charge of interment or other person having knowledge of the death or fetal death shall refer to the coroner the following cases: (1) where no physician or dentist who is a staff member of an approved hospital was in attendance during the last illness of the deceased or in the case of a fetal death where there was no attending physician, or (2) where the physician or dentist who is a staff member of an approved hospital in attendance during the last illness of the deceased or the attending physician in the case of a fetal death is physically unable to supply the necessary data, or (3) where the circumstances suggest that the death was sudden or violent or suspicious in nature or was the result of other than natural causes, or (4) where the physician, dentist or coroner who provided or would provide the medical certification is a member of the immediate family of the deceased. In every instance of a

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referral under this section, the coroner shall make an immediate investigation and shall supply the necessary data, including the medical certification of the death or fetal death. In no event shall a coroner sign a certificate of death or fetal death for a deceased who was a member of his immediate family.

1953, June 29, P.L. 304, art. V, § 503. Amended 1967, Nov. 21, P.L. 516, § 1; 1991, Dec. 20, P.L. 399, No. 46, § 3, effective in 60 days.

Act 1991-46 legislation

The 1991 amendment, in the first sentence, added subd. (4), and added the third sentence.

Certificate of cause of death, see 16 P.S. §§ 1244, 4242.

**§ 450.504. Death and fetal death registration: permits concerning dead bodies and fetal remains**

No person shall dispose of a dead body or fetal remains until a local registrar or the State Registrar of Vital Statistics issues a permit for disposal. The local registrar or the State Registrar of Vital Statistics shall be authorized to issue the permit and may issue blank presigned permits to the funeral director only. The funeral director or the person in charge of interment or removal shall, within ninety-six (96) hours after the death or fetal death or within ninety-six (96) hours after the finding of a dead body or fetal remains, file with the local registrar a certificate of death or fetal death.

The sexton or other person in charge of any premises in which bodies are interred or cremated shall not allow the interment or cremation of any dead body or fetal remains unless a permit issued under this section is presented to the sexton. The sexton or other person in charge of the premises shall endorse upon each permit presented to the sexton or other person the date of interment or cremation, over the sexton's or other person's signature, and shall return the permit so endorsed to the local registrar of the sexton's or other person's district or the State Registrar of Vital Statistics within ten days from the date of interment or cremation.

1953, June 29, P.L. 304, art. V, § 504. Amended 1971, July 9, P.L. 213, No. 38, § 1; 2006, Oct. 27, P.L. 1200, No. 129, § 2, effective in 60 days [Dec. 26, 2006]; 2009, July 2, P.L. 52, No. 11, § 3, effective in 60 days [Aug. 31, 2009].

Act 1971-38 legislation

The 1971 amendment in the first sentence after “remains” deleted “or remove the same from the registration district”.

Act 2006-129, § 2, rewrote the section, which prior thereto read:

“No person shall dispose of a dead body or fetal remains until a local registrar issues a permit therefor. The local registrar shall issue the permit only after the person in charge of interment or removal has filed with the local registrar a certificate of death or fetal death and has complied with all regulations with respect to the issuance of the permit.

“The sexton or other person in charge of any premises in which bodies are interred or cremated shall not allow the interment or cremation of any dead body or fetal remains unless a permit issued under this section is presented to him. The sexton or other person in charge of such premises shall indorse upon each permit presented to him the date of interment or cremation, over his signature, and shall return the permit so indorsed to the local registrar of his district within ten days from the date of interment or cremation.”

**§ 450.505. Death and fetal death registration: out-of-state permits**

**Vital Statistics Law of 1953**  
**Selected Provisions**  
**35 P.S. §§ 450.101 - 450.703**

When a death or fetal death occurs outside of this Commonwealth and the dead body or fetal remains are accompanied by a permit for burial, removal or other disposition, issued in accordance with the law and regulations in force where the death or fetal death occurred, the permit shall authorize transportation into or through this Commonwealth and burial or other disposition of the dead body or fetal remains within this Commonwealth, without the indorsement of a local registrar of this Commonwealth.

1953, June 29, P.L. 304, art. V, § 505.

**§ 450.506. Death and fetal death registration: regulations concerning dead bodies and fetal remains**

The Advisory Health Board shall make and may amend or repeal regulations governing disposal, transportation, interment and disinterment of dead bodies and fetal remains, in order to protect the public health and promote the integrity and efficacy of death and fetal death registration. However, the Advisory Health Board shall not, pursuant to the authority contained in this or any other act, promulgate any regulation which would require that the top of the outer case containing a casket be buried a distance of more than two feet from the natural surface of the ground.

1953, June 29, P.L. 304, art. V, § 506. Amended 1981, Nov. 20, P.L. 338, No. 123, § 1, imd. effective.

The 1981 amendment added the last sentence.

Section 2 of Act 1981, Nov. 20, P.L. 338, No. 123, provides as follows:

“This act shall take effect immediately and any regulations inconsistent with this act, including but not limited to 28 Pa. Code § 1.21 (relating to depth of graves), is hereby abrogated to the extent of the inconsistency.”

**§ 450.506.1. Death and fetal death registration: Unidentified dead bodies and fetal remains**

(a) Notwithstanding any other provision of law to the contrary, no certificate of death or fetal death shall be issued in this Commonwealth if the body or fetal remains have not been positively identified unless the person issuing the certificate of death first obtains a DNA sample and submits the same to the Pennsylvania State Police for storage, for forensic DNA analysis, including nuclear and mitochondrial DNA typing, and for inclusion in any appropriate DNA database, in accordance with established Pennsylvania State Police policies and procedures. A person submitting a DNA sample to the Pennsylvania State Police pursuant to this section shall immediately notify the Pennsylvania State Police when any previously unidentified body or fetal remains are positively identified. The Pennsylvania State Police shall immediately notify the person submitting a DNA sample pursuant to this section when any identification is made following submission of the sample. The Pennsylvania State Police shall not charge any fees for receiving, storing or analyzing a DNA sample submitted pursuant to this section. The Pennsylvania State Police shall establish policies and procedures to implement the requirements of this section.

(b) This section does not:

(1) relieve a coroner or medical examiner of the requirements of 18 Pa.C.S. § 2908(a.1) (relating to missing children);  
or

(2) authorize a coroner or medical examiner to dispense with normal investigative procedures to determine the identity of a body or fetal remains.

(c) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

**Vital Statistics Law of 1953**  
**Selected Provisions**  
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“DNA” means deoxyribonucleic acid. DNA is located in the cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.

“DNA sample” means a blood, skeletal or tissue sample obtained by a coroner or medical examiner from an unidentified dead body or from fetal remains as required by this section for analysis or storage, or both.

**§ 450.507. Death and fetal death registrations: pronouncement of death by a professional nurse**

(a) Professional nurses licensed under the act of May 22, 1951 (P.L. 317, No. 69), known as “The Professional Nursing Law,”<sup>5</sup> who are involved in direct care of a patient shall have the authority to pronounce death as determined under the act of December 17, 1982 (P.L. 1401, No. 323), known as the “Uniform Determination of Death Act,”<sup>6</sup> in the case of death from natural causes of a patient who is under the care of a physician when the physician is unable to be present within a reasonable period of time to certify the cause of death.

(b) Professional nurses shall have the authority to release the body of the deceased to a funeral director after notice has been given to the attending physician, when the deceased has an attending physician, and to a family member.

(c) If circumstances surrounding the nature of death are not anticipated and require a coroner's investigation, the professional nurse shall notify the county coroner, and the authority to release the body of the deceased to the funeral director shall be that of the coroner.

(d) This section provides for the pronouncement of death by professional nurses in accordance with the “Uniform Determination of Death Act,” but in no way authorizes a nurse to determine the cause of death. The responsibility for determining the cause of death remains with the physician or the coroner as provided under this act.

(e) (1) Professional nurses and employing agencies of professional nurses acting in good faith and in compliance with the guidelines established by this act and the State Board of Nursing shall be immune from liability claims by reason of pronouncing death.

(2) Nothing contained in this section shall be deemed to impose any obligation upon a professional nurse to carry out the function authorized by this act.

(3) Nothing in this section is intended to relieve a professional nurse of any civil or criminal liability that might otherwise be incurred for failing to follow the rules and regulations of the State Board of Nursing.

(4) Nothing in this section shall preempt the requirements of the provisions of 20 Pa.C.S. Ch. 86 (relating to anatomical gifts).

1953, June 29, P.L. 304, art. V, § 507, added 1991, Dec. 20, P.L. 399, No. 46, § 4, effective in 60 days.

**§ 450.701. Subsequent registrations: supplemental reports on original records**

The Advisory Health Board shall adopt regulations for the purpose of obtaining information omitted from original certificates filed with the department. Supplemental reports filed within the time prescribed therefor shall be considered a part of the original record and certificates or records so completed shall not be considered as “delayed”,

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<sup>5</sup> 63 P.S. § 211 et seq.

<sup>6</sup> 35 P.S. § 10201 et seq.

**Vital Statistics Law of 1953**  
**Selected Provisions**  
**35 P.S. §§ 450.101 - 450.703**

“amended” or “corrected”.

1953, June 29, P.L. 304, art. VII, § 701.

**§ 450.702. Subsequent registrations: delayed registrations**

The acceptance of any vital statistics record after the time prescribed for its filing shall be subject to such regulations as the Advisory Health Board may deem necessary and proper to preserve the integrity of vital statistics records.

1953, June 29, P.L. 304, art. VII, § 702.

**§ 450.703. Subsequent registrations: correction of records**

The acceptance of an application to correct an alleged error in any certificate or record filed with a local registrar or with the department under this act shall be subject to such regulations as the Advisory Health Board may deem necessary and proper to preserve the integrity of vital statistics records.

1953, June 29, P.L. 304, art. VII, § 703.

**Pennsylvania Department of Health  
Title 28 Pa. Code  
Vital Statistics Regulations  
Selected Provisions**

**Pennsylvania Administrative Code  
Part I. General Health  
Chapter 1. Administration of Vital Records**

**§ 1.11. Issuance of certificates of death.**

- (a) Local registrars shall issue certificates of death from original certificates of death in their possession upon completion of a period of instruction on the preparation of certificates by representatives of the Division of Vital Records.
- (b) For each certificate issued the local registrar shall receive a fee of \$2.00.

Amended July 7, 1979.

**§ 1.21. Depth of graves.**

- (a) The distance from parts of the top of the outer case containing the casket may not be less than 1.5 feet (18 inches) from the natural surface of the ground.
- (b) When a casket is not placed in an outer case or when a body is not placed in a casket, the distance from parts of the casket or body may be no less than 2 feet--24 inches--from the natural surface of the ground.
- (c) The superintendent, sexton, caretaker or other person in charge of the cemetery shall be responsible for graves being dug to the depths required by subsections (a) and (b) and maintaining the depth requirements.
- (d) This section does not apply to crypts for which there are no depth requirements.

Amended Apr. 27, 1985.

**§ 1.22. Structures for the dead.**

- (a) *Crypts.* No dead human body shall be placed in a permanent crypt unless the crypt is fitted with a durable covering which may be tightly sealed after each interment, or unless the remains are encased in a sealed container from which no evidence of dissolution may escape.
- (b) *Mausoleums.* No dead human body shall be placed in a permanent overground mausoleum or other structure for the dead unless the remains are encased in a container so sealed that no evidence of dissolution may escape.
- (c) *Receiving vaults.* Receiving vaults may be used for the temporary reception of dead bodies, if the bodies are properly embalmed, for a period not exceeding 30 days, beyond which period special permission from the Department of Health shall be required. The responsible person in charge of a dead human body which is placed in a temporary vault shall make application for special permission at least 1 week prior to the expiration of the 30-day period. Bodies retained in a temporary vault may, within the initial 30-day period, be removed and interred in a cemetery in this Commonwealth or shipped, on the authority of the original burial permit. In every case the death certificate shall be filed within 96 hours after death. A new burial permit shall be secured by the person responsible for the final disposition of each dead human body which has been retained in a temporary vault beyond the 30-day period.

Amended Apr. 27, 1985.

**§ 1.23. Shipment of bodies dead of noncontagious diseases.**

(a) Human bodies, dead of noncontagious diseases, which are to be shipped by common carrier to a point which cannot be reached within 24 hours after death shall be either embalmed or placed in a metal or metal-lined, hermetically sealed container. Bodies which remain unclaimed for 36 hours after death shall fall under the jurisdiction of the Humanity Gifts Registry and shall be shipped in accordance with its procedures.

(b) Except for bodies shipped by air, embalmed bodies shall be shipped by placing the casket in a strong outer box made of lumber not less than 7/8 inch thick, bearing at least four carrying handles, two on each side, or six handles when the box is over 5 feet 6 inches in length, or an approved metal shipping case.

(c) For transportation by air the casket may be placed in a receptacle which meets the specifications of the carrier.

Amended July 7, 1979.

**§ 1.24. Transit permit.**

In addition to the burial permit, in all cases where dead human bodies are to be shipped by common carrier, or transferred while in shipment, a transit permit shall be securely attached to the outside case as authority for the shipment or transfer.

Adopted Oct. 30, 1959.

**§ 1.25. Disinterment of dead human bodies.**

(a) *Permit.* No dead human body shall be removed from its place of interment unless a disinterment permit is first secured from a local registrar who is authorized to issue a disinterment permit, according to the following requirements:

(1) The funeral director or cemetery official making the application shall present to the local registrar the correct name, date of death and cause of death of the body to be disinterred and written consent of next of kin, or appropriate order from a court of competent jurisdiction.

(2) No disinterred body shall be reinterred either in the same cemetery or another cemetery located in this Commonwealth unless a burial or removal permit is obtained.

(3) Disinterment permits shall be void after the expiration of 72 hours from the date of issue and no disinterment may be made between sunset and sunrise.

(4) Disinterment permits shall be delivered to the sexton or other person in charge of burial grounds in which the disinterments are to be made and shall be returned by him to the local registrar of the district where the body is reinterred within 30 days from the date the permit was issued.

(b) *Authorization.* Disinterments shall be authorized during any month of the year.

(c) *Transportation.* Except when the remains are found to be thoroughly desiccated, the transportation by public conveyance or common carrier of a disinterred body shall be forbidden unless the remains are encased in a hermeti-

cally sealed container. When a disinterred body is to be transported by common carrier, certification as to the facts in the case shall be presented by the qualified person in charge of the removal to the local registrar of the district in which the disinterment is made and from which the body is to be transported. The local registrar shall issue a proper permit and no disinterred body may be transported without the permit.

(d) *Exhumation and exposure.* The remains of a dead body may not be exhumed and exposed to view without an order from a court of competent jurisdiction.

Amended July 7, 1979.

**§ 1.47. Burial permits.**

No burial permit may be issued until the local registrar has been satisfied that the funeral director has complied with this chapter.

Adopted Oct. 30, 1959.