

## **GUIDANCE NOTES FOR REGISTERED MEDICAL PRACTITIONERS AUTHORISING CREMATION**

### ***(i) Who Completes the Certificate of Registered Medical Practitioner Authorising Cremation Form?***

The new *Certificate of Registered Medical Practitioner Authorising Cremation* form is to be completed by medical practitioners authorising cremation who are registered under the *Medical Practice Act 1994*.

Any registered medical practitioner may complete the Certificate of Registered Medical Practitioner Authorising Cremation provided that s/he is not the registered medical practitioner who signed the notice as required under section 37(2) of the *Births, Deaths and Marriages Registration Act 1996* (Medical Certificate of Cause of Death) in respect of the death of the deceased person, and:

- (i) is not in partnership<sup>1</sup> with any registered medical practitioner who in his or her capacity, treated the deceased; and
- (ii) will not derive any professional remuneration from any registered medical practitioner who treated the deceased; and
- (iii) has not acquired and does not anticipate acquiring directly or indirectly any property or pecuniary or other benefit of any description by or by reason of the death of the deceased (apart from any fee payable for the provision of the Certificate of Registered Medical Practitioner Authorising Cremation).

### ***(ii) Documentation that Must Accompany the Certificate of Registered Medical Practitioner Authorising Cremation***

The funeral director or person who is otherwise arranging for the disposal of the remains of the deceased must provide the registered medical practitioner with:

- (i) an Application for Cremation Authorisation; and
- (ii) the Medical Certificate of Cause of Death.

These documents should be complete, clear and legible.

### ***(iii) Authorising Cremation and Completing the Certificate of Registered Medical Practitioner Authorising Cremation Form***

Prior to authorising cremation, the registered medical practitioner must:

1. carefully read the statements contained in the Application for Cremation Authorisation relating to the deceased

**AND:**

2. examine the body of the deceased

**AND:**

3. sight the Medical Certificate of Cause of Death.

The registered medical practitioner must indicate on the certificate using the tick boxes provided whether he or she has sighted:

---

<sup>1</sup> 'Partnership' refers to a legal relationship of persons carrying on a business with a view to profit. Partners are jointly and severally liable for the debts incurred in connection with the partnership. It does not include for example two doctors who work in a hospital and share the same employer.

- (i) a completed Medical Certificate of Cause of Death relating to a person aged 28 days or over; or
- (ii) a completed Medical Certificate of Cause of Perinatal Death.

***(iv) Authorising Cremation: Making Careful and Independent Inquiry***

Prior to authorising cremation, the registered medical practitioner must state on the certificate that s/he has made careful and independent inquiry into the circumstances surrounding the death of the deceased. This is in order to satisfy him or herself that s/he can make a number of statements on the *Certificate of Registered Medical Practitioner Authorising Cremation* form, including that:

- s/he agrees with the cause of death as shown on the Medical Certificate of Cause of Death;
- in his or her opinion, the death is not reportable or reviewable under the *Coroners Act 1985*<sup>2</sup>;
- there is no circumstance concerning the death of the deceased that might necessitate further examination of the body before it is cremated or which could, in his or her opinion, make exhumation of the body necessary at any time in future;
- in his or her opinion, there is no reason why the cremation should not proceed.

Careful and independent inquiry into the circumstances of the death should include:

- (1) a discussion with the treating and attending doctor(s) about the circumstances surrounding the death, including:
  - (a) the cause of death;
  - (b) whether there is any reason to suspect that the death resulted from injury inflicted by the deceased or any other person, poison, privation or neglect, or any illegal operation;
  - (c) pre-existing disease / medical conditions; and
  - (d) recent surgery.

Where the registered medical practitioner considers it appropriate, the registered medical practitioner may also:

- (2) access and carefully peruse the medical records of the deceased<sup>3</sup>;
- (3) contact any other registered medical practitioners attending the deceased during the deceased's last illness to discuss the circumstances surrounding the death, including the cause of death<sup>4</sup>; and/or
- (4) contact any persons present at the moment of the deceased's death and/or any other persons(s) who nursed the deceased during their last illness to discuss the circumstances surrounding the death.

***(v) Authorising Cremation: Certification and Statements on the Certificate***

Prior to authorising cremation, the registered medical practitioner must be satisfied that he or she is willing to make the statements numbered 1 to 7 as detailed on the certificate.

---

<sup>2</sup> See attached notes for definitions of reportable and reviewable deaths

<sup>3</sup> This is an allowable disclosure under Health Privacy Principle 2.2(c) of the *Health Records Act 2001* or section 141(2)(c) the *Health Services Act 1988*.

<sup>4</sup> As per footnote 3.

If a registered medical practitioner is prepared to authorise cremation, he or she should clearly indicate this on the certificate, by checking the tick box next to the statement "I authorise the cremation of the deceased."

The medical practitioner should then return the following documents to the funeral director or other person arranging the cremation:

- the signed and completed Certificate of Registered Medical Practitioner Authorising Cremation;
- the completed Application for Cremation Authorisation; and
- the Medical Certificate of Cause of Death.

***(vi) Refusing to Authorise Cremation***

If a registered medical practitioner is not prepared to make one or more of the statements detailed on the Certificate of Registered Medical Practitioner Authorising Cremation, then he or she must refuse to sign the certificate.

***(vii) Requirement to Contact the Coroner's Office in Certain Circumstances***

If a registered medical practitioner refuses to sign a Certificate of a Registered Medical Practitioner Authorising Cremation, he or she must clearly indicate this on the certificate, by checking the tick box next to the statement "I refuse to authorise the cremation of the deceased" and detailing the grounds for the refusal in the space provided.

If the medical practitioner does not agree with one or more of the statements 2, 3, 4 , or 5 on the Certificate of Registered Medical Practitioner Authorising Cremation form s/he must contact the Coroner's Office by telephoning the following 24 hour number: (03) 9684 4444.

**STATUTORY REQUIREMENTS: CEMETERIES AND CREMATORIA ACT 2003 AND CORONERS ACT 1985**

***Cemeteries and Crematoria Act 2003***

**Section 138. Who can sign certificate of registered medical practitioner authorising cremation?**

A Certificate of Registered Medical Practitioner Authorising Cremation must be signed by a registered medical practitioner who is not the registered medical practitioner who signed the notice as required under section 37(2) of the *Births Deaths and Marriages Registration Act 1996* in respect of the death of the deceased person who is to be cremated.

**Section 139. Refusal to sign certificate of registered medical practitioner authorising cremation**

If a registered medical practitioner refuses to sign a Certificate of Registered Medical Practitioner Authorising Cremation, he or she must clearly endorse that fact on the certificate.

**Section 140. Offence to make false statement in certificate of registered medical practitioner authorising cremation**

A person must not make a false statement in a certificate of registered medical practitioner authorising cremation.

Penalty: 600 penalty units or 5 years imprisonment or both.

***Coroners Act 1985***

**Section 13. Obligation to report death**

- (1) A person who has reasonable grounds to believe that a reportable death has not been reported must report it as soon as possible to a coroner or the officer in charge of a police station.
- (2) The coroner or the officer must inform the State Coroner of the reported death as soon as possible.
- (3) A doctor who is present at or after the death of a person must report the death as soon as possible if:
  - (a) the death is a reportable death; or
  - (b) the doctor does not view the body; or
  - (c) the doctor is unable to determine the cause of death; or
  - (d) no doctor attended the person within 14 days before the death and the doctor who is present is unable to determine the cause of death from the deceased's immediate medical history.

Penalty: 10 penalty units.

- (4) If more than one doctor is present at or after a death, and one of them reports it to a coroner, the other doctors need not report the death, but must give to the coroner investigating the death any information which may help the investigation.

- (5) The death of a person who was held in care immediately before death must be reported as soon as possible to a coroner by the person under whose care the deceased was held.

Penalty: 10 penalty units.

### **Section 13A. Obligation to report reviewable death**

- (1) A person who has reasonable grounds to believe that a reviewable death has not been reported to the State Coroner as a reviewable death must report it to the State Coroner as soon as possible after becoming aware of the existence of that death.

Penalty: 10 penalty units.

- (2) A doctor who is present at or after the death of a child must report the death as soon as possible to the State Coroner if the death is a reviewable death.

Penalty: 10 penalty units.

- (3) If more than one doctor is present at or after a reviewable death and one of them reports it to the State Coroner, the other doctors need not report the death, but must give the State Coroner any information which may help the investigation into that death.

#### **“Reportable death” means a death:**

- (a) where the body is in Victoria; or
- (b) that occurred in Victoria; or
- (c) the cause of which originated in Victoria; or
- (d) of a person who ordinarily resided in Victoria at the time of death-  
being a death –
  - (e) that appears to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from accident or injury; or
  - (f) that occurs during an anaesthetic; or
  - (g) that occurs as a result of an anaesthetic and is not due to natural causes; or
  - (h) that occurs in prescribed circumstances; or
  - (i) of a person who immediately before death was a person held in care; or
    - (ia) of a person under the control or care of the Secretary to the Department of Justice or a member of the police force; or
    - (iia) of a person in respect of whom a court has made a non-custodial supervision order under Section 26 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*; or
  - (j) of a person whose identity is unknown; or
  - (k) that occurs in Victoria where notice under Section 37(1) of the *Births Deaths and Marriages Registration Act 1996* has not been signed; or
  - (l) that occurs at a place outside of Victoria where the cause of death is not certified by a person who, under the law in force in that place, is authorised to certify that death.

**“Reviewable death” means a death:**

- (a) where the body is in Victoria; or
- (b) that occurred in Victoria; or
- (c) the cause of which occurred in Victoria; or
- (d) of a child who ordinarily resided in Victoria at the time of death  
being a death of a second or subsequent child of a parent.