

DUTIES OF THE LAST ATTENDING OR COVERING PHYSICIAN,

Sec. 382.008(3) Florida Statutes

- A. When an apparent natural death occurs (*a death other than as identified in s. 406.11 Florida Statutes*) the physician last "*in attendance*", or the covering physician upon review of the medical records, has the responsibility to complete the death certificate.
- “(3) Within 72 hours after receipt of a death or fetal death certificate from the funeral director, the medical certification of cause of death shall be completed and made available to the funeral director by the physician in charge of the decedent's care for the illness or condition which resulted in death, the physician in attendance at the time of death or fetal death or immediately before or after such death or fetal death, or the medical examiner if the provisions of s. 382.011 apply. The physician or medical examiner shall certify over his or signature the cause of death to the best of his or her knowledge and belief.” (s. 382.008(3), Florida Statutes)
- B. Nothing is stated in the *statute* that further defines what “*in attendance*” means. However, the Attorney General of Florida has held that where a physician was not present at time of death, the death certificate could be executed by a treating physician.
- “The death of a person at home while under the care of an attending physician is not an "unattended" death for purposes of notification of the district medical advisor (sic) [examiner].”,
 - “...the death of a patient "unattended" by a physician would relate to the absence of a doctor/patient relationship at the time of the death and not necessarily the physical presence of the attending physician at that time.”, and
 - “...the death of a person at home while under the care of an attending physician who signs the death certificate does not by itself trigger the notification and procedural requirements in sections 406.11 and 406.12, Florida Statutes.” (AGO 94-103)
- C. Attending or treating physician duties include the issuance of prescription medications for chronic conditions such as asthma, hypertension, diabetes, liver failure, etc.
- “(1) In the case of any death or fetal death due to causes or conditions listed in s. 406.11, or where the death occurred more than 30 days after the decedent was last treated by a physician *unless the death was medically expected as certified by an attending physician*, or where there is reason to believe that the death may have been due to

unlawful act or neglect, the funeral director or other person to whose attention the death may come shall refer the case to the medical examiner of the district in which the death occurred for investigation and determination of the cause of death.”(Emphasis added, s. 382.011, Florida Statutes)

D. In order for the Medical Examiner to sign the death certificate of an apparent natural death he/she must rely on medical records that, at best, can be described as second hand. An attending or covering physician, even though he/she hasn't seen the deceased for several weeks, is still in a better position to certify the death, barring any unusual circumstances.

E. To be in conformance with the law, therefore, if the **treating physician (or covering physician) who last attended the deceased** within a *reasonable* length of time is informed by this office that the death does not appear to be a Medical Examiner case, the physician should sign the death certificate provided that no indications of foul play or suspicious circumstances are known.

[N.B. We are confident that treating physicians do not intentionally jeopardize their medical licenses but it is only fair to point out that Florida's medical licensure provisions, as listed in Florida Administrative Code Chapter 62B8-8.001(2)(g), call for disciplinary action including an administrative fine of from \$1,000 to \$10,000 for noncompliance with signing of a death certificate (FAC Chapter 62B8-8.011(3)(c)(1)). Furthermore, Chapter 382.026(8) Florida Statute considers a failure to perform any of the duties imposed by the statute grounds for a misdemeanor criminal charge and a fine of up to \$1,000 per day.]