

**Invitation for Public Comment: Amendments to
COMAR 10.03.01.01-.03, .05, .06, .10, .16
– Definitions, Preparations of Certificates, Birth Registration, Death
Registration-Fetal Deaths, Transportation of Human Remains-Burial-Transit
Permit, Birth Certificate of a Deceased Person, Births Outside an Institution**

The Maryland Department of Health is seeking comments on a proposal to amend several regulations under COMAR 10.03.01.

The purposes of this proposal are to:

- (1) Clarify that vital records information should be filed electronically unless otherwise directed by the Secretary;
- (2) Clarify requirements for training and certification on the use of the electronic vital records registration system;
- (3) Provide for amendments to birth certificates to be made by attending clinicians;
- (4) Clarify requirements for audits conducted to verify the facts of birth entered into the electronic vital records registration system;
- (5) Remove the requirement that a hospital administrator must sign a burial transit permit for fetal remains that are retained or cremated by the hospital;
- (6) Allow an alternative document to be used in place of a burial transit permit when human remains are transported, which is necessary due to procedural changes associated with implementation of the Department’s electronic death registration system;
- (7) Clarify that a birth certificate may be issued to the spouse of a deceased individual;
- (8) Clarify requirements for filing birth certificates for births occurring outside of an institution; and
- (9) Set requirements for verifying the facts of births for births occurring outside an institution without an attending clinician in charge.

In the proposed revisions (below), text in [brackets] indicates a deletion while text in italics indicates an insertion. The full current regulation text can be viewed on the COMAR website at http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=10.03.01.*

The Department invites you to send any comments to lee.hurt@maryland.gov with the subject line “Health Statistics Proposal Comment” by November 24, 2017.

10.03.01.01 (April 24, 2017)

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) *“Attending clinician” means the physician, nurse midwife, or direct-entry midwife in charge of a birth outside an institution.*

[(3)] (4)—[(9)] (10) (text unchanged)

(11) *“Direct-entry midwife” means an individual licensed to practice direct-entry midwifery under Health Occupations Article, Title 8, Subtitle 6C, Annotated Code of Maryland.*

[(9-1)] (12)—[(16)] (19) (text unchanged)

(20) *“Nurse midwife” means an individual certified to practice as a nurse midwife under Health Occupations Article, Title 8, Annotated Code of Maryland.*

[(17)] (21)—[(22)] (26) (text unchanged)

10.03.01.02

.02 Preparation of Certificates.

A. An individual who prepares a birth, death, or fetal death certificate shall *file the record using the electronic vital records registration system maintained by the Department unless otherwise directed by the Secretary* [:].

B. *Electronic registration may be phased in, as determined by the Secretary, until an electronic vital records registration system is fully implemented.*

C. *An institution, mortician, or attending clinician filing fewer than 10 certificates in a calendar year may not be required to use an electronic vital records registration system.*

D. *An individual who files a record using an electronic vital records registration system shall attest to the record’s accuracy by electronic signature.*

E. *An individual who is required to file records via the electronic vital records registration system:*

(1) *Shall participate in training, as determined by the Secretary, on the proper use of the system,*
and

(2) *May be required to successfully complete a certification test on the proper filing of vital records before being granted access to the system.*

[A. Provide a] *F. A record that is not prepared electronically shall be:*

(1) Typed[;]

[(2) Written] *or written* plainly in black unfading ink; [or] *and*

[(3) Stored on electronic media approved by the Secretary; and]

[B. Attest to the record's accuracy by signing the record]

(2) *Signed* in black unfading ink [or by electronic signature] *to attest to the accuracy of the record.*

10.03.01.03

.03 Birth Registration.

A.—B. (text unchanged)

C. Amending or Correcting Data on Birth Certificate Other than Name

(1) To amend or correct data other than the name on a birth certificate, the following documents and information shall be submitted:

(a) For date of birth, time of birth, sex (other than changed by surgery), and place of birth of the subject of the vital record:

(i) (text unchanged)

(ii) A letter citing the correct data from the [physician or certified nurse-midwife] *physician, nurse midwife, or attending clinician* in attendance at birth; or

(iii) (text unchanged)

(b)—(c) (text unchanged)

(2) (text unchanged)

D. (text unchanged)

[E. Verification of Births Outside an Institution.

(1) Before the Secretary may accept a certificate of live birth for registration of a birth that occurs outside an institution, the local health officer or designee of the jurisdiction where the birth occurs shall:

(a) Verify the facts regarding the birth; and

(b) Sign the birth record.

(2) If the facts regarding a birth cannot be verified by the local health officer of the jurisdiction where the birth occurs, in order for the Secretary to create a birth record, an individual listed in Health-General Article, §4-208(b), Annotated Code of Maryland, shall obtain an order from a court of competent jurisdiction that:

(a) Lists the facts about the birth; and

(b) Orders the Secretary to create the birth record according to the facts.]

[F.] E. (text unchanged)

F. Audit of Birth Records.

(a) All institutions that register births through the electronic vital records registration system shall be:

(1) Subject to an audit of the accuracy of the birth records are submit, at an interval determined by the Secretary; and

(2) Required to make the medical records available for review by the auditor for comparison to the items captured on the birth record.

(b) All attending clinicians in charge of births outside of an institution who register those births via the electronic vital records registration system shall be:

(1) Subject to an audit of the accuracy of the birth records they submit, at an interval determined by the Secretary; and

(2) Required to make the medical records available for review by the auditor for comparison to the items captured on the birth record.

10.03.01.05

.05 Death Registration — Fetal Deaths.

A.—E. (text unchanged)

F. When a fetus of 20 or more weeks gestation period is retained or cremated by a hospital, the hospital administrator shall enter his name on the certificate as the funeral director or the person acting as funeral director. [, and sign the burial-transit permit as the sexton or other person in charge.]

10.03.01.06

.06 Transportation of Human Remains — Burial-Transit Permit.

A. Human remains may not be transported within the State or moved from the State without a burial-transit permit [. The form of the burial-transit permit shall be prescribed by the Secretary] *or alternative documentation prescribed by the Secretary.*

[This] B. *The burial transit permit shall accompany the human remains to their final destination.*

C. *The individual required to provide the date and place of final disposition on a burial transit permit shall submit the information using the electronic vital records registration system maintained by the Department unless otherwise directed by the Secretary.*

[B.] D. (text unchanged)

10.03.01.10

.10 Birth Certificate of a Deceased Person.

A. [Upon] *On* presentation of an official death certificate, a birth certificate on a deceased individual may be issued to:

(1) (text unchanged)

(2) *A surviving spouse;*

~~[(2)] (3)~~—~~[(3)] (4)~~ (text unchanged)

B. (text unchanged)

.16 Births Outside an Institution.

A. *An attending clinician in charge of a birth outside an institution shall:*

(1) *Prepare the forms required by the Secretary to register the birth; and*

(2) *File the forms.*

B. *If a birth occurs outside an institution and an attending clinician is not in charge of the birth, the local health officer or designee of the jurisdiction where the birth occurs shall:*

(1) *Verify the facts regarding the birth by obtaining the documentation required by §D of this regulation;*

(2) *Sign the birth record; and*

(3) *File the birth record with the Secretary.*

C. *If the facts regarding a birth cannot be verified by the local health officer of the jurisdiction where the birth occurs, in order for the Secretary to create a birth record, an individual listed in Health-General Article, §4-208(b), Annotated Code of Maryland, shall obtain an order from a court of competent jurisdiction that:*

(1) *Lists the facts about the birth; and*

(2) Authorizes the Secretary to create the birth record according to the facts.

D. The following documentation shall be required to verify a birth outside an institution when an attending clinician is not in charge of the birth:

(1) A valid, unexpired, government issued identification document for the child's mother in the form of a:

(a) Driver's license;

(b) State issued photo identification card;

(c) Passport;

(d) Permanent resident card;

(e) Military identification card; or

(f) A signed statement the mother does not have any of the identification documents listed in §D(1)(a)—(e) of this regulation and two of the following documents that contain the applicant's name and current address:

(i) Utility bill;

(ii) Car registration form;

(iii) Pay stub;

(iv) Bank statement;

(v) Income tax return;

(vi) Income tax W-2 form;

(vii) Lease or rental agreement; or

(viii) Letter from a government agency;

(2) Evidence of pregnancy in the form of:

(a) Prenatal or postnatal medical record that is consistent with the date of delivery and includes the:

- (i) Mother's name, date of birth, and date of health exam; and*
- (ii) Health care provider's signature, printed name, signature date, and license number;*
- (b) A statement from a physician or certified nurse midwife licensed in the United States who has first-hand knowledge of the pregnancy and is willing to attest to the fact of pregnancy;*
- (c) Preregistration with the local health department during pregnancy, including a face to face interview and physical examination;*
- (d) Documentation of a home visit by a public health nurse or other health care provider who has first-hand knowledge of the pregnancy; or*
- (e) Other evidence acceptable to the Secretary;*
- (3) Evidence of live birth in the form of:*
 - (a) A statement from a physician, certified nurse midwife, or other licensed health care provider who saw or examined the infant within the first 2 weeks of life;*
 - (b) An observation of the infant during a home visit by a public health nurse or licensed health care provider during the first 2 weeks of life; or*
 - (c) Other evidence acceptable to the Secretary; and*
- (4) Evidence of place of delivery in the State as follows:*
 - (a) If the birth occurred in the mother's place of residence, evidence of place of delivery shall be in the form of:*
 - (i) A driver's license or other State-issued identification document that includes the mother's current Maryland address;*
 - (ii) A rent receipt, mortgage statement, or deed that includes the mother's name and Maryland address;*

(iii) A recent pay stub that includes the mother's name and Maryland address; or

(iv) Other evidence acceptable to the Secretary;

(b) If the birth occurred outside of the mother's place of residence and the mother is a resident of Maryland, evidence shall be in the form of:

(i) An affidavit from the tenant of the premises where the birth occurred stating that the mother was present on those premises at the time of the birth;

(ii) Evidence of the affiant's residence similar to that required in §D(4)(a) of this regulation; and

(iii) Evidence of the mother's residence in the State similar to that required in §D(4)(a) of this regulation.

(c) If the mother is not a resident of Maryland, evidence shall consist of clear and convincing evidence acceptable to the Secretary.