**10 DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**146 OFFICE OF DATA, RESEARCH AND VITAL STATISTICS**

**Chapter 1: TRANSPORTATION, STORAGE AND FINAL DISPOSITION OF DEAD BODIES**

1. Definitions

A. Authorized Person. “Authorized person” means a person other than a funeral director who demonstrates authorization for final disposition of a dead body as required by M.R.S.A., Title 22, § 2846.

B. Burial-Transit Permit. “Burial-transit permit” means a permit for transportation, temporary storage, disinterment, or final disposition of a dead body by burial, cremation, burial at sea, use by medical science, or removal from the State, as specified by M.R.S.A., Title 22, § 2843.

C. Dead Body. “Dead body” means a human body or parts of a human body, other than a fetus, from the condition of which it reasonably can be concluded that death occurred.

D. Department. “Department” means the State of Maine Department of Human Services.

E. Disinterment. “Disinterment” means the exhumation and/or removal of a dead body from or within a cemetery.

F. Entombment. “Entombment” means placement of a dead body in a receiving vault or other structure constructed for this purpose, prior to final disposition.

G. Fetus. “Fetus” means a product of conception dead prior to the complete expulsion or extraction from its mother; the fetus shows no signs of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

H. Funeral Director. “Funeral director” means a person licensed for the practice of funeral service in Maine, or his agent.

I. Final Disposition. “Final disposition” means the burial, cremation, burial at sea, use by medical science, removal from the state, or other authorized disposition of a dead body or fetus.

J. Institution. “Institution” means any establishment, public or private, which provides in- patient medical, surgical, or diagnostic care or treatment, custodial or domiciliary care, or to which persons are committed by law.

K. Municipal Clerk. “Municipal clerk” means the duly elected or appointed clerk of the city, town, or plantation where death occurred, where the death certificate is required to be filed by M.R.S.A., Title 22, § 2703, or where an establishment of the funeral director having custody of the dead body is located.

L. Medical Examiner’s Release. “Medical examiner’s release” means a certificate from a duly appointed medical examiner that he has made personal inquiry into the cause and manner of death and is satisfied that no further examination or judicial inquiry is necessary, as specified by M.R.S.A., Title 32, § 1405.

M. Report of Death. “Report of death” means a statement from a funeral director, as specified by M.R.S.A., Title 22, § 2843, Sub-§ 2, that he has been unable to obtain a medical certification of the cause of death. The report of death must name the attending physician and include assurances that the physician has been contacted and will certify the death as due to natural causes. When a medical examiner is required to determine the cause of death, the report of death must name the medical examiner and include assurances that the medical examiner has been contacted and has indicated that the body can be released for embalming and final disposition.

N. Official of a Municipality. “Official of a municipality” means the municipal clerk or, in the case of a municipality without a full-time clerk, another elected or appointed municipal official designated in writing by the clerk to endorse the burial-transit permit pertaining to each burial, cremation or disinterment which takes place in the municipality. A person who has been appointed by the municipal clerk as a subregistrar may not be designated as an official of the municipality for the purposes of M.R.S.A., Title 22, § 2843.

O. Registration. “Registration” means filing of a certificate with the municipal clerk as required by law. Registration is complete when the municipal clerk enters the date of filing, signs the certificate, and forwards a copy to the State Registrar.

P. Subregistrar. “Subregistrar” means a person appointed by the municipal clerk of the city, town, or plantation where death occurred, where the death certificate is required to be filed by M.R.S.A., Title 22, § 2703, or where an establishment of the funeral director having custody of the dead body is located.

Q. Suitable Container. “Suitable container” means a sound receptacle made of material such as wood, fiber board, or other rigid material, or canvas to contain a dead body.

2. Burial-Transit Permit

A. Issue

1. Permit Required

a. A burial-transit permit is required for any transport of a dead body, except transport by a funeral director having custody of the dead body from the site where death occurred (or where the funeral director received custody) to an establishment of a funeral director.

b. A burial-transit permit is required for any transport of a dead body by an authorized person.

c. A burial-transit permit is required for any transport of a dead body from the establishment(s) of the funeral director to another location.

d. A burial-transit permit issued by the municipal clerk or subregistrar, or by the appropriate authority in another state or foreign country, shall authorize final disposition of the dead body by burial or entombment without further permit, and after presentation of a completed death certificate and a medical examiner’s release, shall authorize cremation, burial at sea, use by medical science, or removal from the State.

e. Cremated remains of a dead body may be transported, buried, or otherwise disposed of without a burial-transit permit.

f. Parts of a living human being such as an amputated arm or leg may be buried or cremated without a permit.

g. A burial-transit permit is required for temporary storage of a dead body for more than 14 days and up to eight months. Storage for more than eight months shall be treated as final disposition for the purposes of this rule.

h. A burial-transit permit is required for disinterment of a dead body, as specified in section 5.

i. The circumstances under which a burial-transit permit is required for transport or final disposition of a dead fetus are specified in section 7.

2. Issuing Clerk

a. A burial-transit permit may be issued by the municipal clerk or subregistrar of the municipality where death occurred or where an establishment of the funeral director having custody of the dead body is located.

b. A copy of each burial-transit permit issued by a subregistrar, together with a copy of the completed death certificate or report of death, shall be transmitted to the clerk who appointed the subregistrar at the earliest opening of the municipal office after the date of issue.

c. A burial-transit permit may be issued by a subregistrar only when the municipal office is closed or the municipal clerk or deputy clerk is not available.

3. Conditions for Issue

a. No burial-transit permit shall be issued to anyone other than a licensed funeral director or his agent or until the municipal clerk or subregistrar is satisfied that the applicant for a burial-transit permit is an authorized person as defined by M.R.S.A., Title 22, § 2846, and receives a completed death certificate which indicates that the physician or medical examiner has personally examined the body after death.

b. A burial-transit permit shall be issued to a funeral director or authorized person for transport, storage or burial within the State on presentation of a completed death certificate which meets the requirement of subparagraph a above.

c. A burial-transit permit shall be issued to a funeral director for transport, storage, or burial within the State on presentation of a report of death.

d. A burial-transit permit shall be issued to a funeral director or authorized person for temporary storage of a dead body transported into this State for final disposition on presentation of a permit issued by the duly constituted authority at the place of death.

e. A burial-transit permit shall be issued to a funeral director or authorized person for cremation, burial at sea, or use by medical science only upon presentation of a signed medical examiner’s release and a completed death certificate which meets the requirements of subparagraph a above.

f. A burial-transit permit shall be issued to a funeral director or authorized person for removal from the State on presentation of a signed medical examiner’s release and a completed death certificate.

g. A burial-transit permit shall be issued to a funeral director for removal from the State on presentation of a signed medical examiner’s release and a report of death.

h. A burial-transit permit for disposition of a dead fetus shall be issued to a funeral director or authorized person for final disposition as defined in §1 sub-§ I on presentation of a completed death certificate.

1. A fee for handling the burial-transit permit, as specified in 30-A MRS § 2652 (3)(B), shall be paid to the municipal clerk who issues the permit.

j. Unless the fee for handling the burial-transit permit is paid through the municipal general assistance program under 22 MRS chapter 1161, a $5.00 fee must be collected for each burial-transit permit for deposit into the Cemetery Preservation Commission Fund, in accordance with 13 MRS § 1374.

4. Retention of Copies

a. A copy of the burial-transit permit shall be retained by the issuing clerk until a properly endorsed copy is received following final disposition, as specified in sub-§ B.2. The unendorsed copy may then be destroyed.

b. A copy of the signed medical examiner’s release, if required, shall be retained permanently by the municipal clerk who issues the burial-transit permit.

c. A copy of the death certificate shall be retained permanently by the municipal clerk who issues the burial-transit permit.

d. A copy of the report of death, if used, shall be retained by the clerk who issues the burial-transit permit and by the clerk of the municipality where death occurred until a copy of the death certificate is received. The report of death may then be destroyed. If a death certificate is not received within 21 days, the clerk of the municipality where death occurred shall report the matter to the state registrar for investigation.

5. Registration of Deaths

a. When final disposition is by burial at sea, use by medical science, or removal from the state, the death certificate shall show the disposition of the body as “burial at sea”, “medical science”, or “removal”. The date on which such burial or removal took place shall be entered on the death certificate as the “date of disposition”. The name and location of the final destination (nearest port for burial at sea; name of medical school; name of out-of-state cemetery) shall be entered as the name and location of “cemetery or crematory”.

b. The funeral director or authorized person shall ensure that a completed death certificate is registered, by filing with the clerk of the municipality where death occurred, within three days after the day on which death occurred and prior to the removal of the body from the state.

c. Certified copies of a death certificate may be made only from records for which the registration process is complete.

B. Procedures for Use of Burial-Transit Permits

1. Endorsements

a. If final disposition is by burial or cremation, the burial-transit permit shall be endorsed by the person in charge of the cemetery or crematory, or by an official of the municipality in which the cemetery or crematory is located.

b. If the dead body is buried at sea, removed to a medical school or transported out of state, a copy of the burial-transit permit shall accompany the body to the place of final disposition. The funeral director or authorized person shall complete all pertinent items and endorse the permit.

c. If the dead body is stored temporarily in a vault, the burial-transit permit shall be endorsed by the person in charge of the vault as specified in § 6. The permit shall be retained by the funeral director or authorized person until the body is removed from the vault for final disposition. The permit shall accompany the body to the place of final disposition and be endorsed there as specified in paragraphs a and b above.

d. If the burial-transit permit is for disinterment, it shall be endorsed by the person in charge of the cemetery or vault from which the body has been removed, or by an official of the municipality in which the cemetery or vault is located, in addition to the endorsements required by sub-§ B.1, paragraphs a, b, and c, above.

2. Distribution of Copies After Endorsement

a. After endorsement as specified in sub-§ B.1 above, and within seven days after the date of disposition, the funeral director or authorized person shall present a copy of the endorsed permit to the clerk of the municipality where burial or cremation took place, unless a person in charge of the cemetery or crematory is present. In such case, the person in charge of the cemetery or crematory shall present a copy of the endorsed permit to the municipal clerk.

b. The funeral director or authorized person shall present a copy of the endorsed burial-transit permit to the clerk of the municipality where death occurred and to the clerk of the municipality in which the permit was issued.

c. If the burial-transit permit was not issued by the clerk of the municipality where death occurred, then a fee for handling the burial-transit permit, as specified in 30-A MRS, § 2652, sub-§ 3(B), shall be paid to the municipal clerk at the place of death by the funeral director.

d. Unless the fee for handling the burial transit is paid for through the municipal general assistance program under 22 MRS chapter 1161, a $5.00 fee must be collected for each burial-transit permit for deposit into the Cemetery Preservation Commission Fund, in accordance with 13 MRS § 1374.

3. Retention of Endorsed Copies

Copies of the endorsed burial-transit permit shall be retained permanently by the clerk of the municipality where burial or cremation took place, by the clerk of the municipality where death occurred, and if different, by the municipal clerk who issued the permit.

4. Retention of Medical Examiner’s Release

The medical examiner’s release, if required, shall be retained for 15 years by the person, firm or corporation in charge of final disposition.

5. Permits Not Returned

a. If an endorsed copy of a burial-transit permit for final disposition is not returned to the municipal clerk who issued it within 21 days after the date of death, the clerk shall report the matter to the state registrar and the Board of Funeral Service for investigation.

b. If an endorsed copy of a burial-transit permit for final disposition is not returned to the clerk of the municipality where death occurred within 21 days after the date of death, the clerk shall report the matter to the state registrar and the Board of Funeral Service for investigation.

c. A burial-transit permit issued for temporary storage is to be retained by the funeral director or authorized person having custody of the body until final disposition. If an endorsed copy is not returned to the municipal clerk who issued it within nine months after the date of death, the clerk shall report the matter to the state registrar and the Board of Funeral Service for investigation.

3. Delivery of a Dead Body to an Authorized Person

A. Death in Institution

When death occurs in an institution, the dead body may be delivered to an authorized person who has obtained a burial-transit permit prior to removal from the institution.

B. Communicable Disease.

When death is caused by a reportable communicable disease in Category I, as defined by the rules and regulations of the Department for control of communicable diseases, the dead body shall be delivered to an authorized person only after suitable precautionary measures are taken, consistent with the regulations of the Department, to prevent the spread of infection.

4. Transportation of Dead Bodies

A. Burial-Transit Permit

Dead bodies transported by common carrier in this state shall be accompanied by a burial-transit permit issued by the appropriate authority. The burial-transit permit shall be attached to the shipping case in a strong envelope.

B. Embalming

Dead bodies transported by common carrier shall be embalmed and placed in a suitable container designed for this purpose and which is acceptable to the carrier.

C. Unembalmed Bodies

Dead bodies which cannot be embalmed or are in a state of decomposition may be shipped on a common carrier when enclosed in a proper shipping container suitably designed to prevent the escape of fluids or offensive odors.

D. Funeral Directors

Dead bodies transported in a funeral director’s coach need not be enclosed in outside shipping cases.

E. Private Vehicles

Dead bodies shall be transported in private vehicles only by authorized persons and shall be enclosed in a suitable container made for that purpose which shall be concealed from public view.

5. Disinterment

A. Funeral Directors

Except as authorized by the Department, disinterment shall be made under the supervision of a funeral director who shall be responsible for the proper conduct of the disinterment and removal.

B. Transportation

Regulations for transportation of dead bodies apply to disinterred dead bodies.

C. Permit

1. Permit Required.

a. A burial-transit permit is required for disinterment and subsequent transport and disposition of a dead body.

b. A burial-transit permit is required for transport, removal, or disposition of a dead body stored in a vault for more than eight months, as specified in § 6.

c. A burial-transit permit is required for disinterment and relocation within the same cemetery.

2. Issuing Clerk

A burial-transit permit for disinterment shall be issued by the clerk of the municipality where burial took place or where the dead body has been stored in a vault for more than eight months.

3. Retention of Copies

A copy of each burial-transit permit for disinterment shall be retained by the issuing clerk until a properly endorsed copy is received following final disposition, as specified in § 2, sub-§ B. The unendorsed copy may then be destroyed.

4. Distribution of Copies after Endorsement

After endorsement as specified in § 2 sub-§ B.1, copies of the burial- transit permit for disinterment shall be distributed as required by § 2 sub-§ B.2.

5. Procedures for Use of Burial-Transit Permits for Disinterment

Except as specified in sub-§ C.1 through C.4 above, the disinterment permit is subject to all the rules governing the use of burial-transit permits set forth in §§ 2,3,4,6 and 7.

6. Temporary Storage of Dead Bodies

A. Storage

Storage of dead bodies for eight months or less in vaults or other structures constructed for this purpose is not regarded as final disposition and removal of such bodies is not disinterment. If a body has been stored for more than eight months, a permit for disinterment must be obtained prior to removal from the vault.

B. Death certificate

When a dead body is to be stored more than 14 days, the death certificate shall show the disposition of the body as “entombment”. The date of entombment shall be entered as the date of disposition. The place and location of entombment shall be entered as the name and location of “cemetery or crematory”.

C. Permit

1. A burial-transit permit is required when a dead body is to be stored more than 14 days. The municipal clerk or subregistrar shall issue a burial-transit permit for temporary storage at the request of the funeral director or authorized person.

2. The funeral director or authorized person shall present the burial-transit permit to the person in charge of the vault when the body is placed in the vault.

3. The person in charge of the vault shall endorse the burial-transit permit and return it to the funeral director or authorized person to retain for use when the dead body is removed for final disposition as specified in § 2 and sub-§ B.

D. Transportation

Regulations regarding the transportation of dead bodies shall apply to bodies removed from temporary storage.

7. Disposition of Fetuses

Transportation and final disposition of fetal remains, regardless of the length of gestation, are subject to the same regulations as dead bodies except as specified in this section.

A. A facility may dispose of fetal remains directly without obtaining a burial-transit permit.

B. A burial-transit permit is required if the fetal remains are to be buried in a cemetery, disposed of in a crematorium, buried at sea, used by medical science, or removed from the state.

C. Notwithstanding section 2(S)(3)(h) of this chapter, a burial-transit permit for disposition of the remains of a fetus of less than 20 weeks gestation, or the product of an induced abortion of any gestation, shall be issued upon presentation of a statement from the facility that the parents have chosen to dispose of the remains outside the facility and that the required miscarriage or induced abortion report has been filed. The letter shall name the person who will be responsible for the disposition and shall contain that person’s signature.

STATUTORY AUTHORITY: 13 MRS § 1374; 22 MRS §42, 2843, 2881; and 30-A § 2652

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