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## State of Louisiana

DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

November 22, 2022  
OPINION 22-0097

Hon. Ronald Coe, M.D.  
Livingston Parish Coroner's Office  
20355 Government Boulevard, Suite C  
Livingston, LA 70754

13 CORONERS

La. R.S. 13:5713  
La. R.S. 40:49

La. R.S. 40:34.10

Dear Dr. Coe:

The last attending physician may not refuse to sign the medical certification when that physician is present. However, when that physician is absent, the duty to complete the medical certification under the law falls to the coroner.

You have requested an opinion from this office asking the following question: "In regards to inpatient hospital patients over 24 hours and inpatient hospital hospice patients over 24 hours, who 'shall' be responsible for signing the death certificate in a natural death?" Based upon telephone conversations with you, we understand that this question arises from the following facts. When a patient dies as an inpatient in a hospital or a hospice facility, attending physicians often do not complete the required medical certification or the death certificate. Instead, these physicians are having coroners pick up the remains and complete the medical certifications and the death certificates.<sup>1</sup> With this factual background in mind, we provide the following response to your opinion request.

A review of the Louisiana Revised Statutes has revealed that only one statute contains mandatory language with regard to physicians other than coroners in the process of the completion of a death certificate: La. R.S. 40:34.10(19). This statute provides:

The medical certification of the physician, if any, last attending to the deceased, which certificate shall be made and signed by the physician within twenty-four hours after death with his name and address. In the absence of a physician, the parish coroner shall sign the certificate.

Thus, in answer to your question, within 24 hours after the death of an inpatient in a hospital or hospice facility, the last attending physician shall sign the death certificate or, "[i]n the absence of a physician, the parish coroner shall sign the certificate." The last attending physician may not refuse to sign the medical certification when the physician is not "absent." This statute must be read *in pari materia* with La. R.S. 40:49(B), which provides (in pertinent part) that:

(2) if the death occurred with medical attendance, present the certificate of death to the physician last in attendance upon the deceased, who shall certify over his signature within twenty-four hours the cause of death to his best knowledge and belief; or, if the spontaneous fetal death occurred with

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<sup>1</sup> The "medical certification" is but one of 19 components required for the death certificate. La. R.S. 40:34.10.

any person in attendance, present the certificate of spontaneous fetal death to the physician, midwife, or other person in attendance at the spontaneous fetal death for the certification of the fact of spontaneous fetal death and such medical data pertaining to the spontaneous fetal death as the physician or midwife can furnish in his professional capacity.

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(5) When death occurs more than ten days after the decedent was last treated by a physician, the case shall be referred to the coroner for investigation to determine and certify the cause of death.

(12) The medical certification shall be completed, signed, and returned to the funeral director, if applicable, within twenty-four hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death, except when a coroner's inquiry is required. In the absence of the physician or with his or her approval the certificate may be completed and signed by his or her associate physician, the chief medical officer of the institution in which death occurred, the physician who performed an autopsy upon the decedent, or the coroner, provided such individual has access to the medical history of the case, views the deceased at or after death, and death is due to natural causes.

As with the medical certification required in La. R.S. 40:34.10(19), La. R.S. 40:49(B)(2) requires that, when a death occurred with medical attendance, the last attending physician shall certify the cause of death within 24 hours. Louisiana Revised Statute (B)(12) further describes this as "the physician in charge of the patient's care for the illness or condition which resulted in death." However, when the death occurs more than ten days after the decedent was last treated by a physician, the case is referred to the coroner, and it is the coroner who must determine and certify the cause of death. Louisiana Revised Statute 40:49(B)(3) also provides that, if the last attending physician, "refuses or for any reason fails to sign the certificate" the matter must be referred to the coroner for investigation and certification of the information required in La. R.S. 40:49(B)(2). However, the provision providing that the coroner shall sign in the absence of the last attending physician does not operate as a blanket excuse for the last attending physician to fail to complete the medical certification when that physician is present.

The remainder of the obligations related to a death certificate are contained within La. R.S. 13:5713. Each of these requirements provides only for the completion of the forms by the coroner.<sup>2</sup> It is thus our opinion that the last attending physician may not refuse to sign the medical certification when that physician is present. However, when that physician is absent, the duty to complete the medical certification under the law falls to the coroner. Moreover, when the death occurs more than ten days after the decedent was

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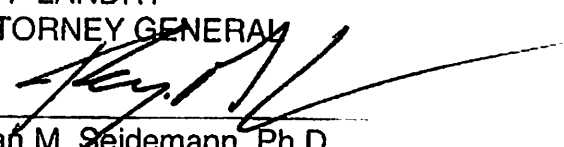
<sup>2</sup> La. R.S. 13:5713(C)(1)(c); La. R.S. 13:5713(C)(3); La. R.S. 13:5713(E)(1); La. R.S. 13:5713(E)(3); La. R.S. 13:5713(E)(4); La. R.S. 13:5713(G)(1).

last treated by the physician, the case is referred to the coroner for investigation to determine and certify the cause of death. Finally, in the absence of an attending physician, the coroner shall complete the "medical certification" required under La. R.S. 40:34.10(19).

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of further assistance, please do not hesitate to contact us.

With best regards,

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ATTORNEY GENERAL

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