

Arch A. Moore, Jr.
Governor



David K. Heydinger, M.D.
Director


State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

NOTICE OF RULE MODIFICATION

LEGISLATIVE RULE: Proposed Vital Statistics, Series 32.

The above titled rule has been modified as a result of comments by the Legislative Rule-making Review Committee and the attached modifications have been incorporated into the above titled rule and filed in the Secretary of State's Office.



David K. Heydinger, M.D.
Director of Health

STATE OF WEST VIRGINIA
1966 DEC 23 11 11 AM '66
FILED

(PROPOSED)

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Vital Statistics

Series 32

Modifications Approved by the Legislative
Rule-Making Review Committee

December 9, 1986

PROPOSED AMENDMENT OF
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Series 32

Title: Vital Statistics

Note: The amendment applies only to Section 11 of the present rule and only that Section is presented herein. Subsection 11.1(a)(4) is to be added to the current rule; strikethrough/underlining is not used.

Section 11. Disclosure of Data; Certified Copies

11.1. Disclosure of Data

(a) The state registrar shall permit the inspection of a record, or issue a certified copy of a record, or part thereof, only when he is satisfied that the applicant therefor is a person or entity having a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination of a personal or property right.

(1) In the case of birth records, the registrant, a member of his immediate family, his guardian, or their respective legal representatives shall be considered to have a direct and tangible interest. In the case of a death or fetal death record, a surviving relative, or his legal representative shall be considered to have a direct and tangible interest. In the case of marriage and divorce records, the parties married, their adult children or their legal representatives shall be considered to have a direct and tangible interest.

(2) For the purpose of securing and obtaining certified copies of vital records, the term "legal representative" shall include an attorney, physician, funeral director, insurance company, or an authorized agency acting in behalf of the registrant or his family.

(3) For the purposes of securing and obtaining data from vital records, the natural parents of adopted children, in the absence of a court order, and commercial firms or agencies requesting listings of names and addresses shall not be considered to have a direct and tangible interest.

(4) In the case of birth records of a child born out of wedlock, the child, the mother or the legal father, as identified pursuant to the procedures set forth in West Virginia Code §48A-6-1 et seq. and §16-5-17 and in Section 7.2 of this regulation, shall be considered to have a direct and tangible interest. Providing a complete certified copy of a birth certificate in these circumstances, including information identifying the mother and the legal father, if any, is not a prohibited disclosure within the meaning of West Virginia Code §16-5-26(c).

(b) The state registrar may permit use of data on vital statistics records for research purposes, subject to conditions the state registrar may impose to insure that the use of the data is limited to such research purposes.

(c) The state registrar may disclose data from vital statistics records to federal, state, county or municipal agencies of government which request such data in the conduct of their official duties: Except that information on vital statistics records indicating a birth occurred out-of-wedlock may not be disclosed unless it can be shown that the information is needed to secure some benefit or privilege for the registrant and that the welfare of the registrant will not be compromised. Also such information may be made available for the official purposes of federal, state, county and municipal agencies charged by law with the duty of detecting or prosecuting crime, preserving the internal security of the United States, or for the determination of citizenship.

(d) Whenever it shall be deemed necessary to establish an applicant's right to information from vital statistics records, the state registrar shall require written application, identification of the applicant, or a sworn statement.

11.2. Certified Copies - Under the provisions of Section 16-5-27 of the Code of West Virginia and this regulation, certified copies of vital statistics certificates may be prepared and issued by the state registrar.

(a) Full and complete certified copies of vital records may be made by mechanical, electronic or other reproductive processes, except that the medical and health data on birth and fetal death certificates, other than the cause of fetal death, shall not be included except by court order.

(b) When a certified copy is issued, each certification shall contain a statement certifying that the facts are the true facts recorded in the issuing office; the date issued; the name of the issuing office; the registrar's signature or an authorized facsimile thereof; and the seal of the issuing office.

(c) Confidential verifications of the facts contained in vital statistics records may be furnished by the state registrar to any federal, state, county or municipal government agency or other agency representing the interest of the registrant. Such confidential verifications shall be on forms prescribed and furnished by the state registrar or on comparable forms furnished by the requesting agency and acceptable to the state registrar; or, the state registrar may authorize the verification of such data in other ways when it shall prove in the best interests of the state division of vital statistics.

(d) No data shall be furnished from records for research purposes until the state registrar has prepared in writing the conditions under which the records may be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with, and conform to, such conditions.

11.3. Fees - The fee to be charged by the state registrar shall be one dollar for each certified copy of a vital statistics record, or for a search of the files when no record is found.

--- Modifications to Proposed Vital Statistics Rule
Approved by the Legislative Rule-Making Review Committee
December 9, 1986

11.1. Disclosure of Data

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(1) In the case of birth records, a ~~request from~~ the registrant, a member of his immediate family, his guardian, or their respective legal representatives shall be considered to be have a direct and tangible interest. In the case of a death or fetal death record, a ~~request from~~ a surviving relative, or his legal representative shall be considered to be have a direct and tangible interest. In the case of marriage and divorce records, the parties married, their adult children or their legal representatives shall be considered to be have a direct and tangible interest.

(2) For the purpose of securing and obtaining certified copies of vital records, the term "legal representative" shall include an attorney, physician, funeral director, insurance company, or an authorized agency acting in behalf of the registrant or his family.

(3) For the purposes of securing and obtaining data from vital records, the requests from natural parents of adopted children, in the absence of a court order, and requests from commercial firms or agencies requesting listings of names and addresses shall not be considered to be a direct and tangible interest.

(4) In the case of birth records of a child born out of wedlock, a ~~request from~~ the child, the mother or the legal father, as identified pursuant to the procedures set forth in West Virginia Code §48A-6-1 et seq. and §16-5-17 and in Section 7.2 of this regulation, shall be considered to be have a direct and tangible interest. Providing a complete certified copy of a birth certificate in these circumstances, including information identifying the mother and the legal father, if any, is not a prohibited disclosure within the meaning of West Virginia Code §16-5-26(c).

(b) The state registrar may permit use of data on vital statistics records for research purposes, subject to conditions the state registrar may impose to insure that the use of the data is limited to such research purposes.

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee



NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

December 11, 1986

TO: Ken Hechler, Secretary of State, State Register

TO: David K. Heydinger, M.D., Director
Department of Health
1800 Washington Street, E.
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Vital Statistics (amendment)

FILED
1986 DEC 12 AM 10:40
OFFICE OF THE SECRETARY
STATE OF WEST VIRGINIA

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule as originally filed or as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the state register and with the agency proposing the rule.

cc: Joan Rutledge, Regulatory Services Division
Art Barthelme, State Registrar