

DEATH & CREMATION CERTIFICATES

A brief guideline to common issues.

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Cremation forms are legal documents covered by laws and regulations.

Cremation involves irreversible destruction of the patient's body. The regulations are designed to ensure that there is no doubt about the identity of the body or the cause of death before this final irrevocable procedure.

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Disclaimer: this information is an overview and cannot incorporate all issues. Any comments or suggested corrections would be welcome.

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1. By law, a Death Certificate must be completed “immediately after a doctor learns of the death.”

Burial & Cremation Act: S. 46B: Doctor’s certificate in relation to illness.
(2) A doctor who attended the person during the illness must, if (and only if) satisfied that the person's death was a natural consequence of the illness, *give a doctor's certificate for the death immediately after the doctor learns of the death.*

2. Conditions for completing the certificates if the usual doctor is unavailable:

The usual doctor may not be available. This is essentially defined as being unavailable within the first 24 hours after death.
In that case, another doctor may be able to complete the death certificate. If another doctor fills in the certificate, that doctor must make a reasonable attempt to contact the usual doctor, personally examine the body and must have access to the patient’s medical records.

Burial & Cremation Act 1964. Section 2 - interpretation:
“unavailable” means dead, unknown, missing, of unsound mind, or unable to act by virtue of a medical condition.

Burial & Cremation Act 1964. Section 46B (3):
A doctor other than a doctor who attended the person during the illness may give a doctor's certificate for the death if (and only if) satisfied that the person's death was a natural consequence of the illness and that—
(a) the doctor who last attended the person during the illness is *unavailable*; or
(b) less than 24 hours has passed since the death, and *the doctor who last attended the person during the illness is unlikely to be able to give a doctor's certificate for the death within 24 hours after the death*; or
(c) 24 hours or a longer period has passed since the death, and the doctor who last attended the person during the illness has not given a doctor's certificate for the death.

Burial & Cremation Act 1964. Section 46B (7): **Doctor's certificates in relation to illness-**

A doctor who must give a doctor's certificate under subsection (2) but knows that since he or she attended the person concerned some other doctor attended the person **must not give the certificate without taking all reasonable steps to consult the other doctor.**

Burial & Cremation Act 1964. Section 46(B)(8)

A doctor must not give a doctor's certificate for a death under subsection (3) unless the doctor has—

- (a) **had regard to the medical records** relating to the person concerned of the doctor who last attended the person during the illness; and
- (b) **had regard to the circumstances of the person's death; and**
- (c) **examined the person's body."**

3. Sending the signed Forms to the Medical Referee

There must be no opportunity for a third party to alter the forms.

Once a doctor completes the forms, they **should be placed in a sealed envelope** and handed directly to the Funeral Director to be sent to the Medical Referee.

By convention, the Funeral Director is the delegated party ensuring the integrity of the forms and can fax the forms to the Medical Referee.

Open, unsealed forms should not be left unattended with the deceased.

Cremation Regulations 1973: Schedule 1, Form B

Note - This **certificate must be handed or sent in a closed envelope** by the medical practitioner who signs it to a Medical Referee.

4. Referrals to the Coroner.

There are a wide range of conditions that must be reported to the Coroner.

They include:

- deaths of any person while in official custody,
- death as result of an accident or suicide
- maternal death during childbirth,
- death attributable to medical treatment or procedure.

Coroners Act 2006. Part 2 s.13

Deaths that must be reported under section [14\(2\)](#): Subsection 1:

Without known cause, suicide, or unnatural or violent

1 (a) Every death that appears to have been

–without known cause, or

–suicide, or

–unnatural or violent:

For which no doctor's certificate can be given

1 (b) Every death in respect of which no doctor has given a doctor's certificate

Any death related to a surgical procedure or anaesthetic

1 (c) Every death –

i) that occurred while the person concerned was undergoing a medical, surgical, dental, or similar operation or procedure; or

ii) that appears to have been the result of an operation or procedure; or

iii) that appears to have been the result of medical, surgical, dental, or similar treatment received by that person; or

iv) that occurred while that person was affected by an anaesthetic; or

v) that appears to have been the result of the administration to that person of an anaesthetic or a medicine.

The result of pregnancy or giving birth:

1 (d) any death that occurred while the woman ... was giving birth, or that appears to have been the result of being pregnant or giving birth.

In official custody or care:

1 (e) detained under the Alcoholism and Drug Addiction Act

(f) a child or young person in a residence established under the Children, Young Persons, and Their Families Act 1989

- (g) a child or young person while that child or young person—*
 - i) is in the custody or care of an Iwi Social Service or a Cultural Social Service, or the Director of a Child and Family Support Service; or*
 - ii) in the charge of any person or organisation pursuant to that Act*
- (h) under the Mental Health (Compulsory Assessment and Treatment) Act*
- (i) any care recipient under the Intellectual Disability Act 2003*
- (j) a prisoner as defined in section [3\(1\)](#) of the Corrections Act 2004*
- (k) in the custody of the New Zealand Police*
- (l) under the control of a security officer.*

Exceptions to referral to the Coroner: deaths by accident in the frail elderly.

Note that stringent conditions apply.

A doctor may complete a death certificate and not refer the matter to the Coroner where an accident has occurred and death was mainly caused by injuries; **and**:

the accident or injuries were mainly due to the patient's age (70 years +)

and their infirmities;

and the accident was not suspicious or unusual or caused by another person;

and there are no other indications for a Coroner's inquest.

Burial & Cremation Act 1964 (as at Jan 24 2009) 46C

Doctor's certificate in relation to accidents to elderly persons

(1) A doctor may give a doctor's certificate for the death of a person ... if the person was 70 years of age or older and, in the opinion of the doctor,

*(a) the death was caused by injuries, or injuries contributed substantially to it; **and***

*(b) the injuries were caused by an accident; **and***

*(c) the injuries, the accident, or both arose principally by virtue of infirmities that were attributes of the person's age; **and***

(d) the accident was not suspicious or unusual; and

*(e) the accident was not caused by an act or omission of any other person; **and***

(f) except to the extent that the death involved injury by accident, it was not violent, unnatural, or in some way a death in respect of which the Coroners Act 2006 requires an inquiry to be conducted.

Contacting the Coroner – Medical Practitioners in Auckland

Office Hours: 06:30 AM to 5:00 PM Mon-Fri

- Phone the Auckland Region Coroner: (09) **916 9419**

Auckland Coroners:

- Katharine Greig
- Murray Jamieson
- Morag McDowell

After-hours:

Evenings: 5 PM to 06:30 AM Mon-Thurs

Weekends: 5 PM Fri evening to 06:30 AM Mon inclusive

- Phone the after-hours on-call Coroner: **04 9104482**
- If there is no response after 20 minutes, phone Northern Coronial Services Manager 0274 484280
- If there is still no response, call National Manager Coronial Services Unit 027 243 3113

NB: If the Coroner does not want to take the case (no further action needed): the doctor should document this on the Death Certificate and the Cremation Certificate.

5. Stillbirths.

Defined as a foetus that **died before being born.**

Criteria for a foetus is defined as

- *Weighed 400g or more when it issued from its mother; or*
- *Delivered after the 20th week of pregnancy.*

Thus, if there was breathing and/or a heart beat after birth of a preterm infant, it is not covered under this section. Standard cremation regulations apply.

Stillbirths do not require a Cremation Certificate from a Referee.

A midwife's certificate can be issued if no doctor was present at the delivery

NB: if a still-born foetus was less than 20th week of pregnancy and weighed less than 400g at birth, there are no burial or cremation regulations applicable to this scenario.

Definition: Births, Deaths, and Marriages Registration Act 1995 No 16
S.2 (interpretation):

“Still-born child” means a dead foetus that—

- (a) Weighed 400g or more when it issued from its mother; or*
- (b) Issued from its mother after the 20th week of pregnancy.*

“Dead foetus” means a foetus that, whether or not the umbilical cord had been severed or the placenta had detached, at no time after issuing completely from its mother breathed or showed any other sign of life (such as beating of the heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles).

Cremation Regulations 1973 (SR 1973/154) S. 4: Restrictions on cremation

- (6) ... the body of a still-born child may be cremated without the permission of the Medical Referee if there is delivered to the crematorium authority either a written certificate or a statutory declaration in accordance with and containing the particulars required by [section 46A\(a\)](#) or (b) of the Burial and Cremation Act 1964.*

Burial & Cremation Act 46A: Still-born children

- (1) A still-born child must not be buried, cremated, or otherwise disposed of unless the person in charge of the disposal has obtained—*
- (a) a written certificate relating to the cause of the still-birth signed—*
 - (i) by a doctor who was present at the birth or examined the child after birth; or*
 - (ii) if no doctor was present at the birth or examined the child after birth, by a midwife; or*
 - (b) a statutory declaration, made by the person or 1 of the persons required under the Births, Deaths, Marriages, and Relationships Registration Act 1995 to notify the birth, to the effect that the child was born dead, and that—*
 - (i) no doctor or midwife was present at the birth; or*
 - (ii) it is impossible to obtain a certificate under paragraph (a) from a doctor or midwife present at the birth; or*
 - (c) a coroner's authorisation.*
- (2) The person in charge of the disposal must send a copy of the certificate, statutory declaration, or coroner's authorisation to the department administering this Act.*

6. From January 2009, updated cremation and death certificates should be used to fulfil the updated regulations.

Provisions relating to doctor certificates for death were previously covered under the Births, Deaths and Marriages Act 1995 (sections 37-41). After 24 January 2009 they were removed (repealed) from the renamed Act and were “shifted” to the **Burial & Cremation Act 1964** (“B&C Act”): the wording is almost exactly the same.

Previously, a doctor could only fill in a Cremation Certificate if he/she has attended the deceased before and after death. Now, a doctor can fill in a Cremation Certificate under special circumstances, if they did not see the body before death.

The old “BDM50” Death certificate is replaced by the “HP4720” form.

The new Medical Certificate of Causes of Fetal & Neonatal Death is HP4721.

Administration of these forms is transferred to the Ministry of Health. Forms are available in pads of 20 from Wickliffe Ltd via:

- Email: moh@wickliffe.co.nz
- Telephone: 04 496 2277

The wording of the new Cremation Certificate has been significantly changed to reflect changes in the law since January 2009.

Correctly-worded forms should be available from all Funeral Directors or the Medical Referee.

7. Patient details must be complete and unequivocal.

- “**Full Name** of the Deceased” (Cremation Regulations 1973: r7(1)(a)) includes all middle names.
- Place of Death **in Full** (HP4720). This means the postal address, not simply the name of a hospital or residential facility.
- **The identity of the deceased must be clearly established beyond reasonable doubt**; “patient label” alone is unsatisfactory if the doctor was not familiar with the patient before death. It is better to confirm the identity with the family or staff who knew the deceased well before death.

Cremation Regulations 1973 S.7: Duties of the Medical Referee:
(2) The Medical Referee shall, in every case where he considers it necessary, require to be delivered to him a statutory declaration or other evidence as to the identity of the deceased.

The certificate may be rejected in any of the following cases:

- Absence of the residential street address (i.e. it is insufficient to simply list the name of a rest home or private hospital without the street address).
- Use of a patient sticker to supply the details (as it is too easy to replace a different sticker over the original details)
- Any equivocal patient details such as a mismatch of the patient name on the 2 forms (e.g. incomplete patient name on one or other form).
- Wrong order of surname and first name(s).
- Inadequate description of how the identity was confirmed.

8. Certifying doctor details must be complete.

- **The doctor’s full name should be the same as that registered with the Medical Council of New Zealand**: it is unacceptable to use an unofficial shortened or “anglicized” version.
- “Qualifications” of the certifying doctor refer to the **university degree** that enabled the doctor to gain a Practising Certificate. It does not refer to NZREX or to a job description such as “registrar” or “GP”.

NZHS Guide to certifying causes of death:

Name of practitioner and residential address

*The **full name (including middle name) of the doctor certifying the death should be printed clearly in block letters** in the space provided on the medical certificate It is acceptable to use a customised name and address stamp.*

The certificate may be rejected in any of the following cases:

- Illegible writing
- Incomplete name of the certifying doctor (e.g. surname only);
- Incomplete or unclear medical qualifications (NB: this refers to the university degree, not to job position or NZREX).

9. The Pacemaker question.

Modern battery-powered pacemakers and implanted defibrillators can and have exploded in cremators, occasionally causing substantial damage.

The legal definition of “biomechanical aid” is essentially a pacemaker or any other **battery-powered device**.

- It does not refer to inert metalware or other implants that have no risk of explosion.

A registered doctor must sign Form AB to confirm that a pacemaker is not present.

- Previously, the Medical referee could ask the embalmer or funeral director to confirm whether or not there was a pacemaker but the wording of the updated regulations specify that it must be a doctor.
- If the Coroner arranges an autopsy, the pathologist who performs the autopsy should issue a Pacemaker certificate.

Cremation Amendment Regulations 2008 (SR 2008/410)

S. 6: Duties of Medical Referee.

- (1) A Medical Referee must not permit any cremation unless a certificate in form AB in the First Schedule to these regulations has been given by a medical practitioner...*

Cremation Regulations 1973 (SR 1973/154)

S. 2: Interpretation.

Biomechanical aid means a cardiac pacemaker or any electronic device that is battery operated

Reference:

Gale CP, Mulley GP. Pacemaker explosions in crematoria: problems and possible solutions. J Royal Soc Med 2002; 95: 353-5

10. ANY amendment of these legal forms must be initialed by the certifying doctor.

It is illegal for anyone else to alter a certificate to expedite a cremation.

Burial and Cremation Act 1964

Section 56: Offences concerning cremation

(2) Any person who wilfully signs or utters any false certificate with a view to procuring the cremation of a body commits an offence and shall be liable to imprisonment for a term not exceeding 2 years.

The certificate will be rejected in any of the following cases:

- Any alteration that has not been initialed by the certifying doctor.

11. The Medical Referee

A doctor appointed by each Crematorium Authority, approved by the Director General of Health.

Main role is to check the Death & Cremation certificates for compliance with the appropriate Acts and Regulations and, if everything is in order, signs an authorization certificate ("Permission to Cremate").

Does not have access to the patient's medical records but is authorized to make appropriate enquiries.

Can ask for a formal declaration of identity of the deceased.

Has full authority to refuse to authorize a cremation if there is any doubt.

Cremation Regulations 1973 /154, section 7.

(4) The Medical Referee shall discharge the following further duties:

(a) He shall, before permitting a cremation, examine the application and certificates and ascertain that they are in conformity with these regulations and that the inquiry made by any person giving a certificate in the said form B has been adequate.

The Medical Referee may make any inquiry with regard to the application and any certificate that he may think necessary;

(9) Notwithstanding anything in these regulations a Medical Referee may refuse to permit a cremation without stating any reason.

12. QUESTIONS?

Most Funeral Directors have extensive experience in dealing with death and paperwork and can advise on administrative issues regarding filling the forms correctly but cannot be expected to assist with medical questions such as causes of death.

The Coroner can be phoned directly if there are specific questions relating to possible referrals.

The Medical Referee can be phoned to ask for advice if there is uncertainty.

13. FURTHER READING

Legislation: available on-line at www.legislation.govt.nz

- Birth, Deaths, Marriages & Relationships Registration Act 1995.
- Burial & Cremation Act 1964
- Cremation Regulations 1973
- Cremation Amendment Regulations 2008
- Coroners Act 2006

NZHIS Guide to certifying causes of death

<http://www.nzhis.govt.nz/moh.nsf/pagesns/216?Open>

Coroners Cases:

<http://www.justice.govt.nz/coroners/what-happens/default.asp>

ANSWER ALL SECTIONS. Any/all alterations must be initialised by the certifying doctor.

CREMATION Certificate of Medical Practitioner: Form B

CREMATION REGULATIONS 1973: r7(1)(a) – updated January 2009 (i.e the correct updated legal form)

I am informed that application is about to be made for the cremation of the body of the following:

Full Name of Deceased: ... **(Must exactly match the name on the Death Certificate)**

Address: **(Do not use a Patient Label over this section)**

Occupation:

As a medical practitioner who is required or permitted by section 46B or 46C(1) of the Burial and Cremation Act 1964 to give a doctor's certificate (as defined in section 2(1) of that Act) for the death, and who has seen and identified the body after death, I give the following answers to the questions set out below:

1. On what date and at what hour did he (or she) die?

2. Where did the deceased die?

Was this their own residence, lodgings, hospital, nursing-home, etc

3. Are you a relative of the deceased? If so, state the relationship.

4. Do you have any pecuniary (financial) interest in the death of the deceased?

5. Were you the ordinary medical attendant of the deceased? ...**(i.e the usual GP)**

- If so, for how long? [State how many weeks, months, or years.]

6. Did you attend the deceased during his (or her) last illness?

- If so, for how long? [State how many hours, days, weeks, or months]

7. If you attended the deceased during his or her last illness, when did you last see the deceased alive? [Say how many hours or days before death.]

8. (a) How soon after death did you see the body?

(b) How did you confirm the fact of death?**(i.e. did you examine the body yourself?)**

(c) How did you establish the identity of the deceased person **(e.g. by personal knowledge, staff or family)?**

NB: a patient label alone may have clerical errors. Ideally confirm with family or staff

9. What were the causes of death?

Include the period elapsing between onset of each condition and death (in years, months, or days).

(a) Immediate cause—the disease, injury, or complication which caused death:

NB: terminal "cardiorespiratory failure" or "cardiac arrest" are not diagnoses. They define death.

(b) Morbid conditions giving rise to the immediate cause (in chronological order beginning with the most recent)

.....

.....

(c) Other conditions (if any) contributing to death—e.g. pregnancy, parturition, over-exertion, dangerous occupation?

NB: these are some of the criteria for referral to the Coroner

State how far your answers as to the causes of death and the duration of such causes are founded on your own observations **or on statements made by others (e.g. family, nursing or medical colleagues, police or ambulance staff).** If on statements made by others, give their names and their relationship to the deceased.

This refers to the underlying cause(s) of death as well, not just the terminal event.

Did you make the diagnosis by yourself?

Did other clinicians assist in diagnosis and management decisions?

10. What was the mode of death? (e.g. syncope, coma, exhaustion, convulsions, etc.)

What was its duration? (State number of days, hours, or minutes)

State how far your answer as to the mode of death is founded on your own observations or on statements made by others. If on statements made by others, give their names and their relationship to the deceased.

..... **Did you observe the death yourself or did others advise you what happened?**

11. Did the deceased undergo any operation during the final illness or within a year before death? Yes / No

- if YES, what was its nature,?

- who performed it?

Did death occur within 24 hours of any procedure or operation? **(a case to discuss with the Coroner?)**

12. By whom was the deceased **nursed** during the last illness? (If the death occurred in a hospital, this may be answered by referring generally to the nursing staff in a specified ward, but otherwise give names and say whether professional nurse, relative, etc. This question should be answered with reference to the period of four weeks before death.)

.....

13. By what **medical attendants** (besides yourself, if applicable) was the deceased attended during his (or her) last illness?

... **Were other doctors involved in diagnosis and management of the cause(s) of death?**

14. In view of the knowledge of the deceased's habits and constitution, do you feel any doubt whatever as to the character of the disease or the cause of death? Yes / No

15. Do you have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to:

(a) Violence (including accidental force):	Yes / No	(b) Poison (including overdose):	Yes / No
(c) Privation or neglect:	Yes / No	(d) Illegal operation:	Yes / No

16. Do you have any reason whatever to suppose a further examination of the body to be desirable? Yes / No

17. Have you given the doctor's certificate (as defined in section 2(1) of the Burial and Cremation Act 1964) for the death? Yes / No

Has this case been discussed with a coroner for any reason? Yes / No

Form AB (NOTE that Cremation can only proceed if this is answered clearly): Certificate in relation to Pacemakers and **Other Biomechanical Aids (i.e. any electronic device that is battery operated), i.e. inert joint prostheses and valves are not relevant. The only concern is possible explosion in the cremator.**

I hereby certify that I have examined the body of the deceased person named above.

* NB: **Please cross out and initial the lines that are incorrect*: THIS SECTION MUST BE ANSWERED**

- ☐ I am satisfied that the body does not contain a cardiac pacemaker or any other biomechanical aid
- ☐ I have removed from the body all pacemakers or relevant biomechanical aids
- ☐ A pacemaker or other relevant biomechanical aid is still present and needs to be removed.

I hereby certify that the answers given above are true and accurate to the best of my knowledge and belief, and that there is no circumstance known to me which can give rise to any suspicion that the death was due wholly or in part to any other cause than disease (or accident) or which makes it desirable that the body should not be cremated.

Signature:

Address:

Urgent contact phone number: ... **(in case the Referee needs to make enquiries)** ...

Registered Medical Qualifications: ... **i.e. University degrees or diplomas**

Date:

NB: If another doctor completed the Death Certificate, please print your name.