



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
 ATTORNEY GENERAL

November 9, 1995

Ms. Ann F. Flynn, R.N.  
 Director of Education  
 Marion Memorial Hospital  
 P. O. Drawer 1150  
 Marion, South Carolina 29571

Re: Informal Opinion

Dear Ms. Flynn:

You have asked whether a "registered nurse may pronounce a patient dead in lieu of the physician or coroner during the night." It is your concern that only the coroner or a physician may make such pronouncement.

South Carolina Code Ann. Sec. 44-63-20 (1994 Supp.) provides that

[t]he Department of Health and Environmental Control shall establish a bureau of vital statistics and provide an adequate system for the registration and certification of births, deaths, marriages and divorces by formulating, and enforcing regulations prescribing the method and form of making the registration and certification.

Pursuant to this authority, the Department of Health and Environmental Control has promulgated R-61-19, Section 18, dealing with death certificates. That Section provides in pertinent part as follows:

**Death Registration:**

(a) A death certificate for each death which occurs in this State shall be filed with the county registrar of the county in which the death occurred within five (5) days after

such death, and shall be registered by such registrar if it has been completed and filed in accordance with this section ....

(b) The funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate. He shall obtain the personal data from the next of kin or the best qualified person or source available. He shall obtain the medical certification of cause of death as provided in these Regulations.

(c) The medical certification shall be completed, signed and returned to the funeral director within forty-eight (48) hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by medical examiner or coroner. In the absence of said physician or with his approval, the certificate may be completed and signed by his associate physician, the chief medical officer of the institution in which death occurred or by the pathologist who performed an autopsy upon the decedent.

(d) When death occurs more than ten (10) days after the decedent was last treated by a physician, or if the cause of death appears to be other than the illness or condition for which the deceased was being treated or if inquiry is required by Title 17 of the Code of Laws of South Carolina, 1962, as amended [1976 Code, Title 17, as amended], the case shall be referred to the medical examiner or coroner for investigation to determine and certify the cause of death. If the medical examiner or coroner determines that the case does not fall within his jurisdiction, he shall within twenty-four (24) hours refer the case back to the referring physician for completion of the medical certification.

(e) When inquiry is required by Title 17 of the Code of Laws of South Carolina, 1962, as amended [1976 Code, Title 17, as amended], the medical examiner or coroner shall determine the cause of death and shall complete and sign the medical certification within forty-eight (48) hours after taking charge of the case.

Ms. Flynn  
Page 3  
November 9, 1995

(f) If the cause of death cannot be determined within forty-eight (48) hours after death, the medical certification shall be entered as pending, and the physician, medical examiner or coroner shall submit a supplemental report to the State Registrar on a form furnished by or approved by him. The supplemental report shall be made a part of the death certificate.

As can be seen, the Regulations speak only of a physician, coroner or medical examiner certifying a death. While you reference the term to "pronounce a person dead", this Office has consistently viewed this as meaning the person who certifies death. As we stated in an opinion, dated June 25, 1974, as to who is "authorized to pronounce a person dead,"

... pursuant to Section 32-1102 [now 44-63-20] the State Board of Health and Environmental Control, operating through its Bureau of Vital Statistics, is responsible for establishing regulations governing the registration of death in this State ...

[The rules of the Board issued pursuant to this Section], filed with the Secretary of State on June 19, 1973, prescribe who is to sign death certificates under various circumstances. You will note that only physicians/[medical examiners] ... and coroner[s] are currently authorized to sign death certificates. In the opinion of this office these provisions are valid and govern the questions you have raised. ...

Other opinions of this Office are in general agreement. For example, over thirty years ago, in an opinion, dated September 1, 1964, we stated:

[a]lthough there is no requirement which we can discover that requires a person to be pronounced dead by a physician, we strongly advise that your staff [old Columbia Hospital] of doctors follow the practice of pronouncing death despite any inconvenience which might arise. While our law apparently recognizes that there will not be a physician to pronounce death in every case in this State, we feel that the Rules and Regulations regarding death certificates and Statutes applicable to other matters which relate to death were adopted in the light of the prevailing custom. We can envision all sorts of

legal and practical complications if the custom of a physician pronouncing death is not followed.

In another opinion of October 22, 1975 we further stated:

[n]on-physicians are, in some circumstances legally empowered to certify that death has occurred. For example, a coroner may in some instances, in the absence of an attending physician complete and sign the medical certification of death. However, when there is some real question whether death has occurred, only a person possessed of the requisite medical training and experience should declare a person dead. Under South Carolina licensing standards only doctors of medicine and doctors of osteopathy have the skill and training necessary to determine whether a person's vital functions have ceased.

Again, in Op. No. 3160 (August 6, 1971), we concluded:

it is the opinion of this Office that a coroner can declare a body to be dead, without the concurrence of a physician. It is highly advisable that a physician be consulted on each death, and make the determination, however, such is not required by law.

We quoted from the latter opinion with approval in Op. No. 78-102 (May 23, 1978) in responding to the question whether a county coroner is authorized to go to places such as nursing homes to pronounce a person dead when a doctor has refused to go or cannot be reached. In that same opinion, we also quoted from Section 9.4 of Rule 61-19, referenced above, which addresses the situation where a person is dead on arrival at a hospital or institution. That Section stated:

[i]n the case of a person dead on arrival at a hospital or institution, the physician who views the body may sign a death certificate, provided that in his opinion death resulted from natural causes, and there was no attending physician, or the attending physician was not available.

Ms. Flynn  
Page 5  
November 9, 1995

In all other cases in which a physician is unavailable, the medical examiner or coroner shall prepare and sign the medical certification of cause of death.

I am aware of no statute which alters these opinions. Based upon the foregoing, it would appear that only a physician, coroner or medical examiner could certify the death of an individual.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General

RDC/an