

1978 S.C. Op. Atty. Gen. 145 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-112, 1978 WL 22581

Office of the Attorney General

State of South Carolina

Opinion No. 78-112

June 8, 1978

*1 TO: Doris M. Byars

Director

Office of Vital Records

S. C. Department of Health & Environmental Control

QUESTIONS:

1. Does [Code Section 44-63-130](#) authorize only the State Department of Health and Environmental Control and County Health Departments to issue certified copies of birth, death and fetal death certificates?
2. Is a copy of a completed death certificate form (DHEC Form 670), notarized by a South Carolina Notary Public as a true copy, a certified copy of a death certificate within the meaning of [Code Section 44-63-130](#)?

STATUTES AND CASES INVOLVED:

[Mitchell v. Mitchell](#), 266 S.C. 196, 222 SE2d 499 (1976); Section 44-63-70 and [Section 44-63-130](#), S. C. Code of Laws, 1976.

DISCUSSION OF ISSUES:

1. [Code Section 44-63-130](#) provides that:

It shall be unlawful for any person other than the Department of Health and Environmental Control, and County Health Departments, to issue certified copies of birth, death and fetal death certificates . . . Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned for a period of time not to exceed thirty days, or both.

It is an elementary rule of statutory construction that where a statute is plain and unambiguous on its fact, there is no room for construction, and the statute must be applied according to its literal meaning. [[Mitchell v. Mitchell](#), 266 S.C. 196, 222 SE2d 499 (1976)].

The plain language of [Section 44-63-130](#) is that certified copies of vital records may be issued only by the cited governmental agencies, namely, the State Department of Health and Environmental Control, and county health departments.

2. Certified copies of death certificates are currently issued by DHEC's Bureau of Vital Records and county health departments on DHEC Form 670. This form was developed by DHEC pursuant to Section 44-63-70 and is captioned as follows:

State of South Carolina

Department of Health & Environmental Control Certificate of Death.

You have advised that reproduced copies of DHEC Form 670 have been notarized within this State as true copies of the State of South Carolina Certificate of Death. You have further inquired as to the propriety of such notarization.

Black's Law Dictionary, Rev. 4th Ed. at page 287, defines 'certified copy' as follows:

A copy of a document or record, signed and certified as a true copy by the officer to whose custody the original is entrusted. [[People v. Foster](#), 27 Misc. 576, 58 N.Y. Supp. 574; [Ehrlich v. Mulligan](#), 104 N.J. Law, 375, 140 A. 463, 465, 57 A.L.R. 596.]

As heretofore noted, [Section 44-63-130](#) makes it unlawful for any person other than the Department of Health and Environmental Control or county health departments to issue certified copies of death certificates. The subscription by a Notary Public upon a reproduced copy of a death certificate is a certification indicating that the copy is a true copy of the State of South Carolina Certificate of Death. Such certification is prohibited by [Code Section 44-63-130](#) and is therefore unlawful.

CONCLUSION:

*2 The notarization and certification of death certificates by a Notary Public is prohibited by [Code Section 44-63-130](#), and only the Department of Health and Environmental Control, and County Health Departments, are authorized to issue certified copies.

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