
Wisconsin Legislative Council

MINUTES



STUDY COMMITTEE ON UNIFORM DEATH REPORTING STANDARDS

411 South, State Capitol
Madison, WI
November 15, 2022
10:05 a.m. – 2:37 p.m.

CALL TO ORDER AND ROLL CALL

Chair Ballweg called the meeting to order and determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Joan Ballweg, Chair; Rep. Jesse James, Vice Chair; Sen. LaTonya Johnson; Rep. Steve Doyle; and Public Members Lynda Biedrzycki, Tim Candahl, Sara Kohlbeck, Brian Michel, Teresa Paulus, Kerry Riemer, and Tara Steininger.

COUNCIL STAFF PRESENT: Amber Otis, Senior Staff Attorney; and Kelly McGraw, Staff Attorney.

APPROVAL OF THE MINUTES FROM THE OCTOBER 17, 2022 MEETING

Representative Doyle moved to approve the minutes of the study committee's October 17, 2022 meeting. The motion was seconded by Representative James and passed by unanimous consent.

DESCRIPTION OF DISTRIBUTED MATERIALS AND DISCUSSION OF COMMITTEE ASSIGNMENT

Chair Ballweg welcomed members and explained that the meeting's focus would be to review the bill drafts prepared pursuant to the committee's requests at the previous meeting. Before discussing the bill drafts, Amber Otis, Legislative Council staff, described research on the potential for interoperability among the statewide vital records information system (SVRIS) and other governmental databases, particularly for purposes of completing the death record field indicating whether a decedent served in the armed forces. She explained that direct communication between SVRIS and the databases accessible by the Wisconsin Department of Veterans Affairs may be challenging and incomplete, but families who are uncertain regarding a decedent's history of military service can currently request and likely receive this information within the timeframe to amend a death record.

LRB-0460/P2, Relating to Providing Additional Information Fields Regarding Occupation and Substance Use on Death Records

Kelly McGraw, Legislative Council staff, described LRB-0460/P2. She explained that the proposed additional data would not be collected federally by the Centers for Disease Control, but that the data would be collected and made available for research by the Wisconsin Department of Health Services

(DHS). She also described DHS's comments on the bill draft, including concerns regarding the change to the start date and the lack of limitation on the number of additional occupations listed. Chair Ballweg noted DHS's request for resources to implement the bill draft, as well as other bill drafts to be discussed later in the meeting. She explained that, if the bills are introduced by the Joint Legislative Council, DHS will then be required to prepare a fiscal estimate, which may provide a better understanding of the potential costs associated with each bill draft.

Dr. Biedrzycki expressed concern about inconsistency in determining whether substance use contributed to the death and the potential cost of additional toxicology screenings. The committee's discussion centered on how to ensure substance use data would be useful and minimally burdensome to coroners and medical examiners. The committee analyzed how information from substance use question could provide value, if any, beyond the current cause-of-death information on a death record. The committee also considered directing DHS to promulgate rules instructing how to complete the question concerning substance use. After discussing toxicology costs, data quality, and potential confusion, the committee agreed to remove the substance use question from the bill draft.

The committee also considered limiting the number of occupations listed on a death record either by revising the bill draft or by granting DHS rulemaking authority on this issue. The committee came to a consensus to modify the bill draft to allow death records to list up to two additional occupations without granting rulemaking authority.

Representative Doyle moved, seconded by Senator Johnson, to recommend introduction of LRB-0460/P2 by the Joint Legislative Council, with the following changes: (1) remove the requirement that a death record identify whether substance use contributed to the death; (2) specify that up to two additional occupations may be included in a death record; (3) modify the bill draft's specified start date to apply only to the bill draft's provisions, and not to other current parts of a death record. The motion was approved by unanimous consent.

LRB-0524/P2, Relating to Requiring DHS to Promulgate Rules Regarding Death Investigations and Medical Certification of Deaths

Ms. McGraw summarized LRB-0524/P2. Chair Ballweg noted feedback from the Wisconsin Hospital Association requesting clarity that the best practices would apply only to medical certifications completed by coroners and medical examiners, and not physicians.

Dr. Biedrzycki noted that best practices promulgated as rules under the bill draft could potentially conflict with various national best practices that she currently follows in her role as a medical examiner who is also a forensic pathologist. The committee discussed concern that best practices could become outdated and agreed to require DHS to maintain the best practices on an ongoing basis.

The committee also discussed other appropriate organizations with which DHS must consult when developing best practices, such as forensic pathologists, certified death investigators, and law enforcement. It also considered convening a formal group to advise DHS on best practices rulemaking. Representative Doyle expressed concern about liability that could result from the checklist format, and the committee came to a consensus to remove the checklist format requirement.

Based on this discussion, the committee requested to review at its next meeting an updated bill draft with the following revisions: (1) clarify that the best practices are for medical certifications completed only by coroners and medical examiners; (2) require DHS to consult with forensic pathologist

organizations and further permit DHS to consult with other stakeholders; (3) require DHS to periodically update the best practices; and (4) remove the requirement that the best practices be in a checklist format.

LRB-0458/P2, Relating to Requiring Notification to the Medical Examiner or Coroner of any Death That Occurs Within 24 Hours of Admittance to Certain Facilities

Ms. McGraw described LRB-0458/P2. She explained that the current language of the bill draft requires notification only if a person is admitted as an inpatient to the hospital or other facility. The notification requirement would not apply when a person is treated in the emergency department or is otherwise on the grounds of the facility.

The committee discussed the scope of the notification requirement, including the specific situations in which they intended the requirement to apply and confirmation that the persons subject to the bill draft's notification requirement are the same persons required to report deaths under current law. The committee generally agreed that the notification requirement should apply to deaths that occur in an emergency department or other facilities, including mental health or treatment facilities that are currently required to report when deaths occur.

Ms. Kohlbeck moved, seconded by Senator Johnson, to recommend introduction of LRB-0458/P2 by the Joint Legislative Council, with a change replacing the term "admission" to language that would encompass outpatient settings, such as emergency rooms or other facilities. The motion was approved by unanimous consent.

LRB-0555/P2, Relating to Recommended Training for Persons Who Complete Medical Certifications of Death

Ms. McGraw described LRB-0555/P2. DHS submitted a comment indicating that it already fulfills many of the requirements in the bill draft. The committee discussed a lack of awareness of various medical certification training documents that are currently available.

Mr. Candahl moved, seconded by Ms. Riemer, to recommend introduction of LRB-0555/P2 by the Joint Legislative Council. The motion was approved by unanimous consent.

LRB-0523/P2, Relating to Requiring Use of the Electronic Statewide Vital Records Information System

Ms. McGraw described LRB-0523/P2. DHS submitted various comments, including a request to clarify whether the committee intends to require all medical certifiers to use the electronic system. Chair Ballweg noted the Wisconsin Hospital Association's concerns regarding difficulties transitioning to the electronic system.

The committee discussed the negative impact of any medical certifications transmitted via facsimile and the increased accuracy expected from wider use of the electronic system. Ms. Riemer raised, and the committee discussed, the burden of this requirement on people who infrequently complete medical certifications. The committee also discussed the current prevalent use of the electronic system by funeral directors, coroners, and medical examiners. The committee came to a consensus to require that all medical certifications be submitted electronically and to ease the burden of transitioning to an electronic system by giving certifiers advance notice of the change with a delayed effective date.

Representative Doyle moved, seconded by Ms. Steininger, to recommend introduction of LRB-0523/P2 by the Joint Legislative Council, with the following changes: (1) require any person who completes and signs a medical certification to use the electronic system; (2) remove statutory references to nonelectronic methods for submitting medical certifications; and (3) delay the bill draft's effective date until 24 months after enactment. The motion was approved by unanimous consent.

LRB-0521/P2, Relating to Fatality Review Teams and Granting Rule-Making Authority

Chair Ballweg noted that prior drafting instructions from the Medical College of Wisconsin (MCW) informed the current bill draft. Ms. Kohlbeck described MCW's involvement with various fatality review teams. She noted that current fatality review teams' access to records varies by county and that MCW seeks language that permits, but does not require, such access. Ms. Otis provided an overview of LRB-0521/P2 and noted that MCW has expressed a desire to remove the bill draft's provisions on specific types of fatality review teams.

The committee discussed, and ultimately agreed, to remove the provisions on specific types of death review teams. The committee discussed incorporation of the following provisions from the specific fatality review team sections into the provisions governing fatality review teams more generally: permitting access to records of the prescription drug monitoring program for applicable teams; recognizing a standardized suicide investigation form; requiring DHS to perform various duties currently listed under child fatality review teams; requiring DHS to coordinate with various other state agencies, as appropriate; and creating a nonexhaustive list of suggested fatality review team members.

The committee concurred with MCW's desire to change the record access provisions from mandatory to permissive. The committee also discussed a provision in the bill draft addressing the scope of deaths reviewed by a team based on the death's location and the decedent's residency. Additionally, the committee discussed granting DHS rulemaking authority as appropriate. The committee requested that Legislative Council staff consult with DHS to provide more context about its suggestions for a database for suicide investigations.

Mr. Michel raised the issue of whether the bill draft should be applicable to fatality review teams established without county or local health department participation, with particular concern for tribal health departments. Ms. Paulus expressed concern that the phrase "unexpected death" could limit the scope of fatality reviews, particularly for child death review teams.

The committee requested an updated draft with the following revisions:

- Remove the provisions addressing specific types of fatality review teams.
- Replace the defined term of "unexpected death" with a term that reflects all types of deaths.
- Define "local fatality review team" to include those formed by tribal health departments.
- Clarify that a team's access to certain records is permissive, rather than mandatory.
- Allow teams to access prescription drug management program records, when applicable.
- Require DHS to promulgate rules to develop and implement a standardized suicide investigation form.
- Require DHS to coordinate with other state agencies, as appropriate.
- Specify a nonexhaustive list of members that may serve on fatality review teams.

- Grant DHS express rulemaking authority to implement the new provisions, where appropriate.
- Delay the bill draft's effective date to 12 months after enactment.

ADJOURNMENT

The meeting adjourned at 2:37 p.m.

KAM:ksm