Instructional Memo (2024-03)

March 2024

TO: County Registrars & Deputy Registrars

FROM: Jennifer A. Woodward, Ph.D.
State Registrar
Center for Health Statistics

RE: Instructional Memo (2024-03)
Vital Records Triennial County Review and Best Practices

Oregon has a statewide vital statistics system. This means the state registrar is responsible for the system, including forms and procedures. The state registrar works cooperatively with county vital records offices to provide secure, consistent service across the state. To support this goal, Oregon law requires county registrars and deputy registrars to comply with all instructions of the state registrar. (ORS 432.035)

While the great majority of vital records requirements are found in statute (*Chapter 432 – Vital Statistics*) and administrative rule (*Chapter 333, Division 11*), procedures are also needed (*supported by law or rule*). These procedures are shared through Instructional Memos (IM) such as this one.

The purpose of the current Instructional Memo is to provide specific written instructions on procedures necessary for a vital records system that maintains the confidentiality and security of records consistently throughout Oregon.

This memo replaces Instructional Memos 2016-06 and 2017-10. Please share this memo with your Vital Records staff and keep it with other compliance documents.

Clarification on the roles and responsibilities of the county registrar and deputy county registrar

According to ORS 432.035, "the state registrar shall designate for each county a government employee or, to the extent allowed under state and federal law, an employee of a local public health authority as defined in ORS 431.003, to act as a county registrar." Current law, ORS 431.003(7), defines a local public health authority as one of the following:

(1) A county government;

(2) A health district formed under ORS 431.443; or

(3) An intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010 (5).

Therefore, the state registrar may only appoint a county registrar who is a government employee since the definition of local public health authority only includes governmental entities.

ORS 432.035 also states that the county registrar, in consultation with the state registrar, can designate one or more deputy county registrars. In designating deputy county registrars, county registrars must:

- have sufficient contact with deputy county registrars to ensure compliance with ORS 432 Vital Statistics and OAR 333 Division 11;
- meet all compliance standards related to:

  Notification and approval of County and Deputy County Registrars

  Registration of death records

  Confidentiality of records

  Issuance of certified copies of birth and death records

  Collection of fees

  (Physical) Security of documents

  Penalties; and
- have sufficient control over the operations needed to meet the standards above. These compliance standards are included in the vital records review tool, this memo, and are supported by ORS 432 and OAR 333 Division 11.

If the county registrar can meet these standards and ensure that a deputy county registrar can meet the compliance standards above, the county registrar may appoint an employee of a non-governmental entity to act as a deputy county registrar. If a county registrar appoints an individual who is not a government employee as a deputy county registrar, the county registrar must have a legally binding agreement in place with the deputy county registrar or the entity for which the deputy works, requiring compliance with applicable vital records laws and state registrar instructions.

In sum, county registrars must be government employees. However, if the county registrar can ensure compliance of all operations of the county vital records office, the county registrar may designate deputy county registrars who are not employees of a government entity. The county registrar, and presumably their government office, is legally responsible for all operations at the county vital records office.

County registrars must consult with the state registrar prior to the appointment of any deputy county registrars and must provide notice to the state registrar of the appointment or removal of any deputy county registrar. The state registrar will approve in writing county registrar appointments by issuing commission certificates annually or when staff transitions occur. This approval must be granted before a county registrar or deputy registrar may start work and assume the duties of the position. When county or deputy registrars leave their duties, the county must notify the state registrar in advance if able for the former employee to be removed from the Oregon Vital Events Registration System (OVERS).

Triennial review compliance items which do not have a specific citation in statute or rule or require additional clarification are outlined below.

Numbers correspond to the question number in the Triennial Review Tool dated 11/2022 for easy reference.

6. Any request for vital records certificates, copies, or data must be referred to the State Vital Records office for approval unless you are providing paid certified copies to eligible persons as outlined in ORS 432.380 or providing notice to the county clerk for updating voter registration rolls as outlined in ORS 247.570.

Examples of items to be referred to the state include public record requests; government agency requests for verification; subpoenas; and any requests related to county administrative, public health, mental health, research, and planning functions outside the vital records office. **ORS 432.350, ORS 432.380, ORS 432.030(1)(h)**

The state vital records office will review requests, determine if a data use agreement is required, and provide technical expertise.

7. If a County Vital Records office intends to close or alter standard hours of service for two or more business days, the county must notify the state registrar, local funeral homes, other key partners and the public in advance or as soon as possible in unexpected events. **ORS 432.035, OAR 333-011-0205(1)**

Funeral directors and members of the public may travel long distances to obtain certificates and effort should be taken to inform them of closures. Hours of operation are considered when a county applies to provide vital records to their community.

8. Counties consider how they may maintain continuity of operations in the event of an emergency and are making progress in creating plans. Examples of elements to consider include identifying essential services and staff, alternative locations for operations, and necessary equipment. These plans are not subject to public disclosure. **ORS 432.030(1)(i)**

Counties are not expected to immediately have a continuity of operations plan but should be working towards that goal.

9. Staff shall review reports of death to ensure the report is complete and acceptable for registration according to the requirements set forth by the state registrar. Review shall include active use of the Sight Verification Tool for death reports to catch errors that prevent registration including but not limited to blank cause of death and cases where the manner of the death is something other than "natural", but the medical examiner has not been notified. **ORS 432.035(2)(a)**

Errors that prevent registration are outlined on the Sight Verification tool.

14. Staff shall review each death to confirm that the county has received the following:

- *24-hour Notice of Receipt of Body form (for electronic and hybrid records this will be automatically generated in OVERS)*
- *A complete Final Disposition Authorization permit*
- *A report of death (or identified a registered record in OVERS)*

ORS 432.158(2-7) and ORS 692.405

If one of these three items is missing or the identification tag numbers don't match on the documents, the county should contact the funeral home or place of disposition. This provides a means by which counties can cross-reference death reports, 24 hour notices, and disposition permits. If method of disposition is "Removal from state" you may not receive a Final Disposition Authorization.

16. County staff may only amend marital status, spouse name, informant and funeral home on a death record if they have signed, legally sufficient affidavit from the funeral director that accompanies the death record when it is delivered to the county for initial filing (prior to registration).

If a change to these fields is requested after submitting the death record, it may only be completed if they have a signed, legally sufficient affidavit from the funeral director that indicates that the change is requested due to clerical error.

For both, the original record must still be in the county's possession and they must be able to type a footnote onto the record. All other changes to these fields should be referred to the state vital records office. **ORS 432.035(2); OAR 333-011-0300**

Changes to these fields can affect legal rights. Previously, counties were only allowed to amend these fields if the affidavit to change them accompanied the death record when it was initially filed at the county. Counties may now also amend these fields if the affidavit indicates that the change is due to a clerical error. If the change is not due to a clerical error, and the affidavit didn't accompany the record when it was filed, the change must be referred to the state to ensure OAR 333-011-0300 is being followed.

*17. Staff must refer all birth amendment requests to the state***. OAR 333-011-0265(2)**

If a parent notices an error on a birth certificate, they should contact the state. Do not direct them to contact the hospital and do not contact the hospital on their behalf.

23. County staff maintain an electronic record of orders and security paper by entering ALL applications to order certified copies into the Oregon Vital Events Registration System (OVERS).

- *Data entered must include all information from the order form that has a corresponding field in OVERS and the security paper number for each certificate issued.*
- *Orders should be marked complete in OVERS once issued.*

ORS 432.380(5); ORS 432.380(14)

This documents who ordered a certificate and what information they supplied. It also allows the orders to be properly tracked in reports. If the state needs to contact a customer or receives a call from them, having order information in OVERS allows the state to communicate with the customer about an order without needing to request the order from the county.

29. County and deputy county registrars shall check on the compliance of others and make an immediate report to the state registrar of ongoing noncompliance coming to their notice by observation, upon complaint of a person or otherwise. If a confidentiality breach has occurred, such as a certificate being issued to someone who is ineligible for it, the county must notify the state registrar in addition to following relevant county processes for addressing the breach.
ORS 432.035(2)(b-c)

31. County staff shall safeguard original certificates and security paper supplies at all times. At night or when unattended these items must be secured in a safe, cabinet or drawer that is locked, non-portable and only accessible by vital records staff. **ORS 432.035**

Please refer to the following items regarding best practices:

If parents are signing a Voluntary Acknowledgment of Paternity [Form 45-21] in the county office, staff shall confirm that each parent has heard the rights and responsibilities statement for the parents before they sign. **ORS 432.098(2)(e)**

Parents have a two-week window of opportunity to file the form without paying a fee. Counties should accept paternity forms and forward to the state vital records office without payment. For forms filed within the two-week window, the county should date stamp with date of receipt, and forward them to the state for processing. Date stamping of all paternity forms received is considered a best practice.

If a parent presents a child at the county vital records office as part of the process to receive a delayed filing birth certificate, fill out the Vital Record Office Verification of Live Birth form*, fax it to 971-673-1201 with a photocopy of the parent's ID, and retain the original copies for 1 year.*

The child does not need to have been born in the county where the child is being presented. This process is just a verification that you've seen the child and is one of several requirements for a delayed birth certificate to be registered.