

Episode 10 – Signing Death Certificates

Intro music: 0:00

Podcast Introduction: 0:08

JFB: Imagine a loved one dies. Now imagine that you can't get a death certificate signed. Now imagine that an already difficult situation gets infinitely worse. Because without that signed death certificate, your loved one isn't officially deceased. And until you get one, your loved one stays in a kind of limbo – stuck between this world and the next – while you sort out the mess.

KO: My father in law's body was in a refrigerator for two weeks. And, it bothers me still.

JFB: I'm Jean Fisher Brinkley, Communications Director for the North Carolina Medical Board and this is MedBoard Matters. On this episode, we will be talking about the medical professional's obligation to certify deaths, and the havoc that results when this obligation is not fulfilled. It happens more than you might think. Travis and Kathryn Oakley don't need to use their imagination to understand this issue, because they lived it. You heard Kathryn a moment ago, speaking about Travis's father, Michael Oakley, who passed away in February. Michael Oakley had recovered from a successful kidney transplant. He went into the hospital for heart surgery in February and he didn't do well. His new kidney failed. The care team told his son, Travis, that he would be discharged into hospice and they warned that he didn't have long. Travis took his Pops home on a Friday and loved ones spent the weekend saying their goodbyes. By Monday, Michael Oakley was gone. Travis and Kathryn Oakley never dreamed they'd have trouble getting a death certificate signed. But several days passed before the hospice practice sent one over. When the funeral home handling Mr. Oakley's final arrangements submitted the certificate, it was flagged at the county Vital Records office. The document was signed, all right, but it wasn't completed – the hospice doctor had left the cause of death section blank and Travis Oakley was dumbfounded.

TO: I've got a doctor here dealing with hospice that can't fill out a death certificate. I mean, come on now."

JFB: Travis started a seemingly endless game of phone tag to get the matter sorted out. Meanwhile, Michael Oakley's body was in cold storage, the family unable to honor his wish to be cremated until the death was official. Fortunately, the funeral professional working with the Oakleys was able to convince the county to allow cremation to proceed since the certificate had, in fact, been signed. The county agreed to accept a fully completed certificate at a later time. But the story doesn't end there. While the Oakleys has been focused on laying their loved one to rest, the world had kept on turning. Without a death certificate, there was no way to let the federal Social Security Administration know that Michael Oakley was deceased, so his March check arrived. He also got a coronavirus stimulus payment. Both would have to be returned. Travis found he also needed a death certificate to access his father's bank accounts, so he was unable to tap the money his Pops had set aside for final expenses. The Oakleys ended up using their own coronavirus stimulus check to pay the funeral home.

TO: Logistically, it was just a complete nightmare.

JFB: It took one month and three days, but the Oakleys did eventually get a completed and signed death certificate. That allowed them to settle Michael Oakley's affairs. It was an emotionally and mentally exhausting time that Travis and Kathryn will never forget. And they hardly the only ones who have been through such an ordeal. It's difficult to say how often the system fails – in fact, most of the time there are no issues with death certificates. Still, everyone involved, from North Carolina Vital Records, which registers deaths, to funeral directors across the state, agree that reliably obtaining completed and signed death certificates is a problem. The North Carolina Medical Board regularly hears from family members and funeral professionals about this. Which is why we are dedicating this episode of MedBoard Matters to the topic. It is the Board's hope that highlighting the problems that arise will encourage more medical professionals to do their part when a request to certify death comes to them. In the Oakleys case, the death certificate was signed but not completed. An even more common situation the medical board sees is where no one is willing to sign the death certificate at all. Often, when this happens the decedent passed away at home of natural causes. They may not have been in active treatment for a medical issue. They may not have visited a medical provider for several months or even years. In these situations, the deceased may go straight to a funeral home, where a funeral professional will identify the decedent's physician of record and send a request to complete a death certificate. And when that request comes in, sometimes the provider just says no, I won't sign.

Interview with Dr. Burke-Haynes: 5:09

JFB: I've asked Dr. Karen Burke-Haynes, who is Chief Medical Officer for the North Carolina Medical Board to help shed some light on the clinician perspective and help clarify what signing a death certificate involves. Dr. Haynes, thank you so much for joining me today.

KBH: Thank you so much for the opportunity to talk about this topic.

JFB: I think when a medical professional declines to sign a death certificate, surviving family members are really surprised. They just don't understand why a provider would refuse. I'd like to start by asking you to talk me through some of the reasons why a clinician may be reluctant.

KBH: Well Jean, this topic comes up with some degree of frequency where our licensees express dismay at being put in a position to sign a death certificate. It doesn't happen often, but it happens often enough in cases where they perhaps a distant relationship with the decedent. Perhaps that individual hasn't been seen in their office. Perhaps it is a concern that it was an unwitnessed event, and so there is a reluctance to engage this work from the perspective of accuracy. Do I really understand what happened here? Is this a process that where accuracy is absolutely required of me? And in which case, licensees naturally pushback from that if they are not 100% certain about the cause of death.

JFB: Mm-hmm. And that makes absolute sense. Frequently when we do hear from family members, the situation is often that the loved one died at home unattended, so there were no medical professionals involved. They were simply discovered at home and then the next thing with clinician knows the request to sign the death certificate arrives and they may feel sort of stumped, like I really have no idea why this patient died. Let's talk a little bit about death certificates and what the clinician who is signing the death certificate, excuse me, is actually being asked to do.

KBH: Well, clinicians are being asked to make a reasonable estimation of a probable or presumed cause of death. And so, you can imagine a clinician is in their office. They are in their diagnostic mode. They are seeing patients at some point during the course of the day, a request as presented of them, and so in that moment, that mindset of needing data...needing framework...needing context in order for them to offer an opinion is the model that I think most of our licensees would immediately adopt in the course of trying to give an answer to this question. Particularly in those deaths that are unwitnessed unattended events, so, they're wanting to know information. There's perhaps even a sense of overwhelm. You have a busy clinic, and there's this additional information that you need in order to offer a reasonable opinion. So, one of the places that you can start is by going to the medical record, turning pages, and maybe gathering some insights from that. There could be a statements made by those first responders who may have come on site. There might be some information there, and also perhaps from family members, who could help walk them through that part of the experience. And you know, Jean, I think part of what has to happen in that moment, as I'm describing this clinical way of approaching it, is encouraging our licensees to pause for a moment and shift gears from one of, perhaps, let's say, scientist accuracy data driven response to one of administrator...administrative responsibility and a task that's more rooted in how do I move into a space of helping this family bring some closure to this matter.

JFB: Yes, I think that's...that's very true. I don't know if clinicians are aware of this, but if they decline to sign the death certificate it won't automatically be referred to, for example, the county medical examiner. The county medical examiners are overloaded. They have specific criteria for the types of deaths that they are responsible for investigating. So frequently it causes delays and sometimes those delays can last weeks to months, and they have real consequences for families. They prevent funeral proceedings from going forward. They cause difficulties closing estates or submitting insurance claims and it truly causes headache and heartache and just a bureaucratic snarl that no one would wish to deal with.

KBH: Jean, you are right, there is often this assumption that the medical examiner can pursue this and help with coming up with an accurate reflection of what happened with the...with the patient in question and I do believe, as you've pointed out, there is simply not a system in place that could possibly handle the volume that would be generated from this. Private autopsies are incredibly expensive and typically have to be generated by the desire in the will and wish of the family, so it's not a solution. We're still back to managing the fundamental requirement, expectation, and legal obligation to offer an opinion. I think it's difficult to get that word out to licenses. People may have trained in other states. They may have been fortunate enough not to have been caught in this dilemma of being the person tagged to complete this final service to a former patient. There's so many reasons why a licensee might feel caught off guard by having to do this. Understanding, first of all, that it's the law is perhaps the most important thing. The second you know, we've talked about this, but the idea that we are not looking for precision but a reasonable conclusion of the matter. I think it's important that we support and help licensees recognize that they can step out of that space and really just take a moment to understand that this is administrative and in failing to do that part of it, it creates, as you've just pointed out so much in the way of snarl and entanglement for the family.

JFB: Right. I'm just going to underscore that point. That for the record, you know the...the death certificate is a legal document. It's not a scientific document, so again, as you have stated, the licensee's responsibility or the clinician's responsibility if you're certifying the death is to look at the medical records and come up with a reasonable probable cause of death. You don't have to be quote unquote, right. Obviously, we understand you know, people like to be right, but at the end of the day, this is just a legal process that you need to play your part and...and help things move along so that there can be closure.

KBH: Absolutely. I think I think once again you know we here at the Board really are very clear about the sense of responsibility that our licensees bring to the table when they have tasks to complete. We honor that...we respect that...we acknowledge that. And again, the purpose of our discourse is really to help move...help with understanding that can facilitate and honor, a genuine desire to do the right thing by licensees. To help them to understand that the primary purpose is administrative. The driving factor is law, and the point of compassion is the sympathy that we extend towards to the families of these...of the deceased to...to get this thing done in a timely manner.

JFB: Thank you for that. I want to mention just a couple of things that licensees may not be familiar with that may help them feel better about the responsibility. One is that if you are a physician, it doesn't necessarily have to be you who personally certifies the death. North Carolina law does allow for either a nurse practitioner or a physician assistant to complete the death certificate in your stead. So, this is a task that can be delegated under the law which may help. The other thing is a more recent change and that is something that the medical board supported, and I believe it was 2019...um the 2019 legislative session, but the Board supported a change in the law that offers civil protection from liability. So, if there is a situation where a clinician certifies the death and then that cause of death is disputed that they cannot be held civilly liable. If in fact the death is found to have been the cause of death is otherwise then, then the clinician determined. So, I think those are a couple of things that might offer some solace.

KBH: Jean, you've mentioned a really important point and I do believe in one of the comment periods when we most recently revised the position statement on death certificate, which is found on signing of death certificates found on the Board's website, that that concern was voiced by a handful of licensees who are concerned about certifying and having that certificate...process of certification, put them in a situation where they will be liable for some sort of legal action, and so that is very reassuring to know that there is protection in that sense.

JFB: Another thing that that may offer some encouragement to clinicians is that the state is in the process of introducing an electronic death registration system, so that would allow clinicians who certify deaths to complete the death certificate online, reducing just the paper burden. Do you think that that's something that would be more attractive to...to at least some clinicians?

KBH: I certainly think that it would address some of the scenarios that we've experienced where the document itself is misplaced or has to circulate through an office. For instance, when a provider might be on vacation away for whatever reason, there are times when the identified licensee, whether that be a PA or an MD/DO is never aware that there is a document paper document circulating around the office and some location that they are responsible for signing. I certainly think in the context of an

electronic health record, or perhaps it will be an individual or separate notification system, it might introduce a solution, a very real and viable solution to some of the scenarios that we see, um that wind up being brought to our attention.

JFB: Hmm. OK, well we'll see. I mean, I, as I understand you know the state is going to be extending, they're in the pilot phase now. They are rolling it out to all 100 counties, so I believe by the end of this calendar year, online death registration should be available to anyone potentially in the state who would be certifying a death. So, hopefully that will ease some of the administrative burden, because that is a real concern for our licensees. Is there anything else that you would like to add?

KBH: Just that you know, in recalling years of conversations with licensees who are typically very impassioned in their conversations with me in their sense of feeling that they are being put upon. Their sense of feeling, even compelled to do something that for them might even feel like not ethical. Really feeling that it represents a form of violating of their personal standards for dealing with all things medical. I cannot emphasize enough that I hear that...I understand that, and I think the...the most effective re-framing I can offer our licensees, is that it is truly an administrative matter with its greatest value being placed not on absolute accuracy, but on the support and matters of closure that relate to the patient's affairs and the family's needs. Shift the thinking, reframe it, and [be] reassured that there are some legal protections and move on.

JFB: Mmm-hmm. Well, thank you very much. I greatly appreciate your time.

KBH: Thank you Jean for the opportunity to speak with you.

Resources and wrap up: 18:25

JFB: Now I'm going to dot some I's and cross some T's regarding death certificates and share a lot of information in a relatively short period of time. First, every person who dies has to have a certificate of death. The certificate of death states a probable cause of death and must be signed by an authorized medical professional. In North Carolina, a physician, a physician assistant or a nurse practitioner may sign. And the law says this has to happen pretty quickly. According to the law, medical professionals are supposed to sign a death certificate within three days of receiving the request and funeral professionals must file it within five days of the death, so not a lot of time. How is it decided who will sign a death certificate? If the death is due to natural causes, state law specifies that it should be the physician in charge of the patient's care for the illness or condition that resulted in death. Deaths that are due to injury or violence, as well as natural deaths that are deemed suspicious or unusual in some way, are referred to a medical examiner for investigation. But what about situations where there is no known illness, or the patient is not under treatment? In those cases, it is typical practice for funeral professionals, often aided by family members, to request that the decedent's primary care physician of record complete and sign the death certificate. Push comes to shove, though, the law allows any physician, PA or NP who makes a reasonable effort to understand the circumstances surrounding the death. In most cases, that would involve reviewing available medical records to determine a likely probable cause of death. So, what does the Medical Board think of all this? Well, the medical board has a position statement that gives the official agency view. And that is that licensees should complete death certificates if requested, for patients current, recent, or remote as a professional, ethical, civic,

and public health responsibility. The position also states that the medical board will not pursue discipline against a licensee who completes death certificates in good faith and to the best of their ability with the information available — even if that information is limited. In 2019, the Board went further and supported changes to the law that protect medical professionals’ who complete death certificates in good faith from discipline as well as civil liability. Well, that brings us to the end of this episode. Thank you for joining me. I hope we’ve shed some light on a difficult issue and given medical professionals some fresh insight into the critical role they play in certifying deaths. I asked the Oakley family what message they had for the physicians and other medical certifiers in our listening audiences. Here’s what they had to say:

KO: We’re not cattle. We’re not numbers. We’re not charts. We’re people. We are families. Even when somebody dies, they are human. If it was your father-in-law, or your son, or your daughter, or your mom, how would it make you feel to know that one of your colleagues, in your profession, can’t sign a death certificate properly?

TO: Amen!

JFB: Many thanks to the Oakleys for sharing their story. If you’d like to learn more about death certification in North Carolina, we have included links to various documents and resources on the MedBoard Matters show page which you can access at ncmedboard.org. As always, if you have comments or questions about this podcast, please email us at podcast@ncmedboard.org. I hope you will join me again.