



**TO ALL SMS MEMBERS / CHIEF DIRECTORATES / DIRECTORATES / REGIONAL / DISTRICT OFFICES,
SUB-STRUCTURES / ALL FACILITY MANAGERS / HIGHER EDUCATION INSTITUTIONS / PRIVATE SECTOR**

**CIRCULAR H 146 of 2020: REQUIREMENTS FOR THE ADMISSION OF DECEDENTS THAT DIED OF
UNNATURAL CAUSES FROM HEALTHCARE FACILITIES TO FORENSIC PATHOLOGY SERVICE**

This circular replaces Circular H167 of 2011.

BACKGROUND

Forensic Pathology Service (FPS) was established in 2006 within the Department of Health and is responsible for providing a professional, scientific, medico-legal investigation of all **unnatural** deaths.

The investigation of unnatural deaths is mandated by law and the following legislation apply:

- Inquest Act, 1959 (Act No. 59 of 1959)
- Births and Deaths Registration Act, 1992 (Act No. 51 of 1992)
- National Health Act, 2003 (Act No. 61 of 2003)
- Health Professions Act, 1974 (Act No. 56 of 1974)
- Criminal Procedure Act, 1977 (Act No. 51 of 1977)
- Regulations Regarding the Rendering of Forensic Pathology Service

The list above is not exhaustive as there are many other laws on specific circumstances that also apply.

Unnatural deaths, as defined in the Regulations Regarding the Rendering of Forensic Pathology Service in terms of section 90(i) of the National Health Act, are:

- any death due to physical or chemical influence, direct or indirect, or related complications;
- any death, including those deaths which would normally be considered to be

a death due to natural causes, which may have been the result of an act of commission or omission which may be considered criminal;

- any death as contemplated in section 56 of the Health Professions Act as amended (The death of a person undergoing, or as a result of, a procedure of a therapeutic, diagnostic or palliative nature, or of which any aspect of such a procedure has been a contributory cause, shall not be deemed to be a death from natural causes as contemplated in the Inquest Act or the Births and Deaths Registration Act); and
 - where the death is sudden and unexpected, or unexplained, or where the cause of death is not apparent.
- People can die from unnatural causes in the hospital which will require a medico-legal investigation as per the Inquest Act. Healthcare workers at clinics and hospitals are crucial role players in the management of these decedents and have a duty to assist with the medico-legal nature of a case. These duties and responsibilities include:
 - Notifying the South African Police Service (SAPS) of an unnatural death;
 - Ethical and legal completion of relevant documentation;
 - Keeping the chain of evidence of exhibits collected while in the healthcare facility;
 - Referral to the relevant FPS mortuary; and
 - Providing the appropriate documentation and clinical records of a deceased patient.

PROCEDURES TO BE FOLLOWED

1. In terms of the Inquest Act, all unnatural deaths must be reported to the SAPS, and the healthcare facility must do this before contacting FPS.
2. FPS cannot collect the body without the case having been reported to SAPS, and a **SAPS180** form being **completed and signed by the SAPS**. The completion of the form is the duty of the SAPS and not the healthcare facility. **Completion by the healthcare facility is illegal.**
3. Just as a clinical history is essential to treat a live patient, so too is the history required by FPS to investigate the death adequately. It is therefore imperative that the formal referral documentation (FPS100) and all patient records, including X-rays (other imaging) and reports where appropriate, be made available to FPS.
4. The FPS100 is printed in blue and can be obtained at the nearest FPS. Only the

original and latest version of the document (printed in blue) will be accepted.

5. In case of a procedure-related death (which includes where an anaesthetic constituted part of the procedure or the procedure itself), the GW7/24 (or equivalent) must be completed in addition to the FPS100 and handed over to FPS.
6. In unnatural deaths with suspected or confirmed **COVID-19**, the relevant checklist must be completed, and FPS informed accordingly before collection of the body.
7. Handing over of decedents and accompanying documentation to FPS is part of the medico-legal process. A responsible person at the healthcare facility is required to sign documentation during the handing over process to ensure the chain of evidence as prescribed by the Criminal Procedure Act and Inquest Act.
8. FPS is responsible for collection of the remains at healthcare facilities in cases of unnatural deaths.

FPS100

The FPS100 is a confidential report on suspected unnatural deaths referred to FPS by healthcare facilities. The FPS100 is required for all unnatural death referrals. The purpose of the FPS100 is similar to referral letters between doctors and healthcare facilities in a clinical setting. It provides a concise history and progress report to manage the patient or deceased appropriately. Therefore, the **proper, accurate, and legible** completion of this document is paramount. Hospital folders on its own are not sufficient as they are disorganized when FPS receives them, and to ascertain the clinical course from them before autopsy is not possible. The form is in affidavit format, and any false information can lead to prosecution.

Important notices on the FPS100:

- The information on the first page of the FPS100 must be read as it provides clarity and guidelines on the proper completion of the document. All medical practitioners must familiarize themselves with these instructions before completing the document.
- The FPS100 must be completed by the **senior clinician** responsible for the management of the patient. It serves no purpose to the forensic medical practitioner to phone the doctor on duty who was only responsible for resuscitation and has no insight into the patient's clinical progress or surgical procedures. The forensic medical practitioner must be able to contact the relevant clinician if additional information is needed that is not present on the form itself or in the hospital records.

- A cell phone number should be provided to assist the forensic medical practitioner in getting in contact with the relevant medical practitioner for additional information as above. Any abuse by FPS of clinicians' cell phone numbers can be reported.
- Injuries should not be altered by surgically incising over wounds or extending incisions from them. Do not push intercostal drains into wounds. If catheters or any other therapeutic measures are applied to wounds, there should be accurate descriptions of the wounds in the patient's clinical records and FPS100. These measures destroy crucial forensic evidence in deaths from trauma.
- The reason for the referral as an unnatural death is mandatory as well as a suspected cause of death. It is unethical to refer a natural case to FPS knowingly. The cause of death on the form is needed for clinicopathological correlation.
- Clearly indicate if the person has **COVID-19, HIV, tuberculosis** or any **other infectious disease**. These diseases pose an **occupational health and safety risk** to staff.
- If the space provided is not enough, **ADDITIONAL PAGES** can be added. **Patient details** must be on **EVERY** additional page **AND** the **pages numbered**.
- Ensure that the latest version of this document is used.

MEDICAL AND SURGICAL PARAPHERNALIA

Section 6(1)(b) of the Regulations Regarding the Rendering of Forensic Pathology Service makes provision for the preservation, access, and availability of medical paraphernalia to FPS. All medical and surgical paraphernalia should, therefore, not be removed. Catheters, collecting bags, drains, endotracheal tubes, urine bags, vascular catheters or any other **feature of medical or surgical intervention MUST NOT be removed** by a medical practitioner or nursing staff when a patient dies. These devices must remain in situ as it provides vital information to collaborate with the clinical findings. **This includes any fluids or drainage bags connected to catheters (namely urinary or nasogastric).**

MEDICAL RECORDS

The keeping of quality medical records is also a legal requirement and is mandatory for all healthcare facilities. The disclosure of medical records is permitted in individuals that died of unnatural causes and where that information is necessary to determine the cause of death as per the Inquest Act.

EVIDENCE COLLECTIONS WHILE A PATIENT IS ALIVE

In some instances of unnatural deaths, it will be the duty of the healthcare worker to collect and safeguard forensic evidence. These instances include cases of alleged sexual assault, gunshot wounds, or sharp force injuries with weapons in situ. It is crucial that the chain of custody for the evidence collected is maintained. The following must be recorded in the patient's clinical records and on the FPS100:

- Who collected the evidence (name, surname, and rank must be legible);
- When was it collected (date and time);
- What was done with the evidence when collected;
- To whom was the evidence given after collection (name, surname, and rank must be legible);
- If it was stored and the conditions of storage (should be accessed controlled).
- If a Sexual Assault Examination Kit or any other evidence collection kit were used to record the serial number;
- Bullets or other evidence should be sealed in an evidence collection bag and the seal number recorded.

Note:

- Evidence collection bags can be requested from the SAPS.
- If no evidence collection bags are present, an envelope which is sealed with a patient sticker and signed is appropriate.
- The patient's details and date of the collection must be written on the outside of the evidence bag or envelope.
- Sharp objects (knives/blades) should be secured and its nature indicated to avoid sharp force injury to those handling the evidence.
- Not all patients with trauma will die, and the legal responsibility and testimony will fall on the healthcare workers that were responsible for the patient's care. Proper medico-legal practices will stand you in good stead.

DRUG OR TOXIN-RELATED DEATHS

In deaths from suspected drugs or toxins it is crucial to have a list of **ALL** medications given in hospital. These include drugs given during resuscitation. Legible handwriting on prescription charts is mandatory. The information is necessary to interpret post-mortem results in the context of hospitalization and ascertain possible drug interactions that could have caused or contributed to death.

Any drug analysis done in hospital should be stated and the results made available to FPS. The laboratory where the samples (such as blood or urine) were sent to should also be indicated on the FPS100. In some drug/toxin-related deaths the ante-mortem bloods may be collected and sent for further forensic toxicological analysis.

CONSULTATION OF CERTAIN CASES OF UNNATURAL DEATHS

Procedure-related deaths, sudden unexpected deaths and deaths due to an act of omission or commission should ideally be discussed with the forensic medical practitioner on call for FPS before sending the case. The senior clinician in charge of the case should have a reasonable idea of why they consider the death to be procedure-related or why a death in hospital is sudden, unexpected or unexplained. This will assist in providing a better service, and in cases of procedure-related deaths to correlate suspected complications that might be missed if not highlighted.

DEATH NOTIFICATION FORM (DHA-1663)

1. The **DHA-1663** is a **death notification form** issued by the attending medical practitioner for registering the death at the **Department of Home Affairs** for an official death certificate. This form is **not a death declaration**; therefore, it cannot be used as an alternative to the death declaration or 'dead on arrival' forms.
2. If death is considered **unnatural**, the **DHA-1663 should not be completed** and issued by the healthcare facility. Once the body of the decedent is no longer required for the purpose of the Inquest Act, FPS will complete the DHA-1663.

REMOVAL OF THE BODY OF THE DECEASED

It is **illegal** for a private undertaker to collect the body of a person dying as a result of **unnatural causes** from a healthcare facility and may lead to criminal prosecution. This may also result in the exhumation of the deceased, negative consequences to the next of kin and civil proceedings.

For any queries regarding a referral, all healthcare workers are encouraged to contact their local FPS and to discuss the case with the forensic medical practitioner on call.

Contact details

Below is a contact list of FPS facilities in the Western Cape Province.

| Facility | Contact number (Rural – Landline number is Office Hours only) |
|-----------------|--|
| Beaufort West | 023 415 3906/072 329 2935 |
| George | 044 873 4370/078 330 8008 |
| Hermanus | 028 313 1910/078 911 8666 |
| Knysna | 044 382 7821/083 949 2969 |
| Laingsburg | 023 551 1425/081 707 3586 |
| Malmesbury | 022 482 2620/078 175 8304 |
| Mossel Bay | 044 690 3105/078 553 7269 |
| Oudtshoorn | 044 272 0073/084 579 4363 |
| Paarl | 021 862 2047/078 3303 667 |
| Riversdale | 028 713 4827/083 425 4599 |
| Salt River | 021 448 4457/074 477 0104 |
| Tygerberg | 021 931 4232/061 101 3426 |
| Vredenburg | 022 709 7241/078 556 7292 |
| Vredendal | 027 213 3161/078 330 3641 |
| Wolseley/Ceres | 078 330 3417 |
| Worcester | 023 3475353/083 738 7792 |

Annexures

FPS100

Regulations Regarding the Rendering of Forensic Pathology Service



DR K.C. CLOETE

HEAD OF DEPARTMENT: HEALTH

DATE: 08/07/2020

GUIDELINES FOR THE COMPLETION OF THE REPORT OF SUSPECTED UNNATURAL DEATHS

PLEASE NOTE THE FOLLOWING:

1. This form must be completed in **DETAIL** for all deaths where the **cause of death is unnatural**. The **reason for suspecting an unnatural cause of death** and a **suspected cause of death MUST** be completed.
2. This form must be completed **legibly**.
3. Guidelines for good quality note-keeping applies to this document.
4. For procedure-related deaths, this form should be completed in addition to the form **GW7/24**.
5. **Natural deaths are not admitted to Forensic Pathology Service (FPS).**
6. This document has to be completed by a **SENIOR CLINICIAN** involved in the treatment of the patient. It is the duty of the senior clinician to complete these forms **as soon as possible after death**.
7. The complete form, together with the **hospital folder** of the patient, must accompany the body to the referred FPS Laboratory.
8. **No bodies will be removed from the hospital** without the completed documents and the complete hospital folder of the patient, including X-rays, CT scans etc. Results of all special investigations should be included in the patient folder.
9. Delay in the completion and submission of the form will, therefore, cause a delay in the completion of the medico-legal autopsy and will create an unnecessary inconvenience to the families. After completion of the autopsy, all patient information (patient folder, surgical notes, results, X-rays, CT scans) will be returned to the hospital or family member of the deceased, should this be appropriate.
10. **Surgical notes** are imperative in cases referred to as procedure-related deaths. Private medical practitioners must provide these additionally.
11. **Typed referrals** can also be provided.
12. This document is **constructed as an affirmation**. The original copy will be sent with the autopsy report to be included in the **SAPS investigation docket** to be used in legal proceedings. Competent completion of this document will prevent unnecessary court appearances.
13. **Do not complete the DHA-1663 (death notification form)**, as this will be completed after the post-mortem examination has been conducted. **Only complete a declaration of death form. The original declaration of death form is to accompany the body.**
14. If there is any **uncertainty or query** regarding the referral of a case, **contact** your local **FPS** Laboratory.

CLASSIFICATION OF UNNATURAL DEATHS:

1. **Deaths due to the application of violence and the complications thereof**
 - a. Physical, chemical and thermal violence
 - b. Injury caused by nature, e.g. dog bite, bee sting anaphylaxis
 - c. Complications due to injury
 - i. Tetanus/rabies after a dog bite
 - ii. Gas gangrene/necrotizing fasciitis after gunshot wounds, stab wound etc.
 - iii. Pneumonia/pulmonary embolism after traumatic injury
2. **Procedure-related death (Health Professions Act, Section 56)**
 - a. Definition: Death of a person undergoing or as a result of a procedure of a **therapeutic, diagnostic or palliative nature** or of which **any aspect** of such a procedure has been a contributory cause shall not be deemed to be a death of natural causes.
 - b. There is **no time limit to the definition** (not limited to 24-hours after the procedure).
 - c. Includes all forms of medical and surgical procedures such as tooth extractions, cardiac catheterization or bronchoscopy.
3. **Sudden Unexpected Deaths**
 - a. The so-called 'cot deaths' (SIDS).
 - b. Sudden unexpected and/or unexplained deaths without any obvious cause of death.
4. Any death, including deaths that would otherwise be classified as being 'natural' where it is suspected that the death was due to an act of omission or commission by any other person or medical staff.

If the space provided is not enough, ADDITIONAL PAGES can be added. Patient details must be on EVERY additional page AND the pages numbered.

Additional pages added: Yes No

Number additional pages: _____

| | | | | | | | | | | | |
|--|--|-----|------------------|----------------------|----|------------|-----|----|---------------------|-----|----|
| Have specimens been obtained for laboratory tests? | | Yes | No | Laboratory name here | | | | | | | |
| Does the patient have any of the following suspected or confirmed diseases? | | | | | | | | | | | |
| COVID-19 | Yes | No | Hepatitis | Yes | No | HIV | Yes | No | Tuberculosis | Yes | No |
| Other | Include any relevant laboratory results here | | | | | | | | | | |
| Add pages if needed. | | | | | | | | | | | |

| | | | | | | | | | | | |
|--|-----|----|-------------------------|-----|----|----------------------|--|--|--|--|--|
| Was any of the following taken in the hospital? If YES, provide the results in the space given. | | | | | | | | | | | |
| Alcohol | Yes | No | Drugs/Toxicology | Yes | No | Laboratory name here | | | | | |
| Add pages if needed. | | | | | | | | | | | |

| | | | | | | | | | | | |
|---|-----|----|--|--|--------------------|--|--|--|--|--|--|
| Clothing | Yes | No | Please provide FPS with the clothing if the death is due to ballistic or sharp force trauma. | | | | | | | | |
| Sexual Assault Kit | Yes | No | Kit number | | | | | | | | |
| Weapon | Yes | No | Type of weapon | | Seal number | | | | | | |
| Bullet/s | Yes | No | Number | | Seal number | | | | | | |
| Indicate the position of the bullet/s in the space provided or in diagram 1. | | | | | | | | | | | |
| Add pages if needed. | | | | | | | | | | | |

| | | | | | | | | | | | |
|---|-----------|--|--|--|--|--|--|--|--|--|--|
| Suspected cause of unnatural death: (for clinicopathological correlation) | MANDATORY | | | | | | | | | | |
|---|-----------|--|--|--|--|--|--|--|--|--|--|

I hereby confirm that the facts described above are true to the best of my knowledge and belief and that I make this declaration knowing that, if it is tendered in evidence, I will be liable for prosecution if I willfully state anything which I know to be false or which I do not believe to be true.

| | |
|------------------------|-----------|
| Signature of deponent: | |
| Designation: | |
| Qualifications: | |
| Deponent's address: | |
| Cell phone number: | MANDATORY |
| Email address: | OPTIONAL |

I certify that the deponent has acknowledged that he/she knows and understands the contents of the above declaration, which was affirmed before me, and the deponent's signature was placed thereon in my presence.

| | | | |
|--|--|--------|--|
| Full names and surname: (CAPITAL LETTERS) | | | |
| Signature: | | | |
| Designation (rank): Ex Officio Republic of South Africa | | | |
| Name of employer: | | | |
| Business address: | | | |
| Date: | | Place: | |
| Please note the following regarding Commissioner of Oaths: Any person appointed as Registry Clerk in the WCG (salary level 4 and up) qualifies as an Ex Officio Commissioner of Oath. | | | |
| PLEASE NOTE THAT ONLY THE ORIGINAL PRINTED DOCUMENT WILL BE ACCEPTED. NO COPIES OF THIS DOCUMENT WILL BE ACCEPTED. | | | |

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HEALTH**NO. R. 359****23 MARCH 2018****NATIONAL HEALTH ACT, 2003 (ACT NO. 61 OF 2003)****REGULATIONS REGARDING THE RENDERING OF FORENSIC PATHOLOGY SERVICE**

The Minister of Health has in terms of section 90(1) of the National Health Act, 2003 (Act No. 61 of 2003), and after consultation with the National Health Council made the Regulations in the Schedule.

SCHEDULE**Definitions**

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates-

“authorised medical practitioner” means a medical practitioner registered as a forensic pathologist or medical practitioner in terms of the Health Professions Act, 1974 (Act No. 56 of 1974), and who has been authorised in terms of Regulation 11(1) of these Regulations to perform post mortem examinations or autopsies;

“authorised person” means a person employed by the Forensic Pathology Service of the Provincial Department of Health to perform functions within their scope of

practice which includes, but is not limited to, forensic pathology officers, forensic pathology specialist investigators, scientists and or any other person appointed in the Forensic Pathology Service to work in a support capacity in a medico-legal mortuary or designated Forensic Pathology Service facility;

“autopsy” means the post mortem dissection of a body so as to determine the cause of death and the nature of injuries and disease processes which may be present;

“body” means a dead human body or the remains thereof and *“corpse”* has a corresponding meaning;

“Correctional Services Act” means the Correctional Services Act, 1998 (Act No. 111 of 1998);

“department” means the Provincial Department of Health;

“designated facility” means a medico-legal mortuary or laboratory specially designed for the medico-legal death investigation processes under the auspices of the department;

“designated vehicle” means a forensic pathology service vehicle, specially adapted in terms of applicable specifications to transport bodies;

“Forensic Pathology Officer” means a person appointed by the department to provide a medico-legal investigation of death service within their scope of practice;

“Head of Department” means the person appointed as the head of the provincial department responsible for health in a particular province;

“Health Professions Act” means the Health Professions Act, 1974 (Act No. 56 of 1974);

“IPID” means the Independent Police Investigative Directorate, established in terms of the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011);

“Inquests Act” means the Inquests Act, 1959 (Act No. 58 of 1959);

“Investigating Officer” means a member of the South African Police Service appointed in terms of the South African Police Service Act, 1995, (Act No. 68 of 1995), or an employee of the Independent Police Investigative Directorate appointed in terms of the Independent Police Investigative Directorate Act, 2011 (Act No. 1 of 2011), designated as an investigating officer to investigate the cause and circumstance of death of a particular person;

“medical practitioner” means a person registered as a medical practitioner in terms of the Health Professions Act, 1974 (Act No. 56 of 1974);

“medico-legal investigation of death” means the investigation into the circumstances, manner and possible causes of death which are or may have been due to unnatural causes as defined;

“post mortem examination” means an examination of a body, with the purpose of establishing the cause and circumstance of death and factors associated with the death, and in the context of these Regulations, for medico-legal purposes;

“the Act” means the National Health Act, 2003 (Act No. 61 of 2003);

“the Service” means the Forensic Pathology Service in a province, providing medico-legal investigation of death services as defined;

“the South African Police Service” means the police service established in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995); and

“unnatural death” for the purposes of the medico-legal investigation of death, the following shall be deemed to be deaths due to unnatural causes, as contemplated in the Inquests Act 1959 (Act No. 58 of 1959)-

- (a) any death due to physical or chemical influence, direct or indirect, or related complications;
- (b) any death, including those deaths which would normally be considered to be a death due to natural causes, which may have been the result of an act of commission or omission which may be criminal in nature;
- (c) any death as contemplated in section 56 of the Health Professions Act, 1974(Act No. 56 of 1974); and
- (d) any death which is sudden and unexpected, or unexplained, or where the cause of death is not apparent.

Application

2. These Regulations are only applicable to deaths that are, or appear to be, due to unnatural causes.

Forensic Pathology Service

3. (1) The relevant Member of the Executive Council of a province must, within national policy and in terms of these Regulations, ensure that a Forensic Pathology Service is established and managed within the Department.

- (2) The Service contemplated in sub-regulation (1) includes, but is not limited to -

- (a) where appropriate, commencing with a scene of death investigation in consultation with the investigating officer and or appropriate South African Police Service member who is on the scene, which includes but is not limited to, taking notes, questioning family and other witnesses, examining the death scene and photographing the deceased or any exhibit or specimens;
- (b) obtaining any information that is relevant to the medico-legal investigation of a death, including medical and social history, records, as well as taking witness statements;

- (c) taking responsibility for the collection of a body and its removal from the scene;
- (d) taking responsibility for the custody of a body from the scene of death until released for burial or cremation, and the processes attached thereto;
- (e) taking into custody, thoroughly documenting and maintaining evidence and specimens relating to a body and any associated items or articles at all times;
- (f) assisting, as far as is possible, with the process of identification of the deceased;
- (g) conducting a post mortem investigation, including external and internal examination of a body and retaining of material, tissue or fluids for evidentiary or diagnostic purposes;
- (h) requesting and conducting appropriate special investigations;
- (i) providing medico-legal reports, chain of custody statements, expert testimony and opinions;
- (j) archiving documents, specimens and related materials;
- (k) collecting, reviewing and analysing related data; and
- (l) providing information and advice to health or other government authorities or departments.

Referral of unnatural cases

4. All cases of unnatural death as defined in these Regulations must be referred to the Service.

Attending to Death Scene

5. The Service is responsible for attending and participating in the death scene investigation, which may include, but is not limited to:

- (a) Managing a request for forensic pathology service response.
- (b) Assessing the scene of death in a given situation, this may include any private, public or business premises, vessel, train, motor vehicle or aircraft,

where death has occurred for the purposes of conducting a comprehensive death scene investigation.

- (c) Performing forensic pathology activities associated with the scene of death in terms of the relevant scope of practice including:
 - (i) Declaring death in the following obviously dead cases - decapitation, gross mutilation, putrefaction, and charring;
 - (ii) Examining the body on scene and recording of the incident for the purposes of forensic investigation which includes but may not be limited to photography, sketching, and documentation;
 - (iii) Interviewing any relevant party, including the next of kin and recording the medical history and relevant information pertaining to the deceased;
 - (iv) Obtaining medical records of the deceased from any party or source where relevant; and
 - (v) Assess, handle, collect, preserve and record evidence in line with forensic pathology service procedural requirements.

Unnatural Deaths in Health Establishments

6. (1) A person in charge of a health establishment, where a person has been declared dead and the cause of death appears to be due to unnatural causes must:

- (a) immediately notify the South African Police Service and the Service of such death;
- (b) preserve, provide access to and or make available of all the relevant medical paraphernalia, exhibits and applicable specimens, especially biological fluid specimens in the case of suspected toxicology cases;
- (c) ensure access to and availability of all the deceased's full medical records including laboratory and investigative reports;
- (d) not hand over the body or items referred to in paragraphs (b) and (c) to an undertaker.

(2) The medical records and or relevant completed clinical Forms must accompany the deceased to the designated facility.

Removal and transportation of body

7. (1) The Service may only remove a body from the scene of death or health establishment after the South African Police Service has given written authority for removal of such body by the Service by means of a completed and prescribed SAPS 180 Form.

(2) A body may only be removed from one designated facility to another, after the written approval of the person in charge of the facility from where a body is being removed.

Admission of body

8. (1) The Service may not admit a body to a designated facility unless-

- (a) such body is certified dead or it is in such a state that it is accepted with certainty that the person is dead;
- (b) a SAPS CAS number is assigned to the case;
- (c) an individual facility case file is opened for such body and a register number assigned; and
- (d) such a body is provisionally identified either by name or register number contemplated in paragraph (c).

(2) The person in charge of a designated facility to which a body has been admitted in accordance with sub-regulation (1), must ensure that-

- (a) a clear photograph of the face of the deceased, or remains as may be appropriate, is taken; and
- (b) all fingerprints (where it is possible) of unidentified deceased are taken within seven days.

Storage of body

9. (1) The person in charge of a designated facility must ensure that a refrigerated facility, maintained at a set temperature, is used to store all bodies.

(2) A body must at the time of collection by the Service be in a closed sealable bag made for that purpose.

(3) The body must, upon admission to the Service Facility be labelled with a registration number.

(4) The person in charge of a designated facility must ensure that there is efficient refrigeration of bodies at all times.

(5) The person in charge of a designated facility must set up control measures to ensure that only authorized persons have access to bodies, to documents related to bodies, to areas where post mortem examinations are performed and to the storage unit in which bodies are kept.

(6) The official authorised to admit or remove a body to a facility must record any removal of a body in an incident log, including date, time and purpose of such removal and where available, its identity.

Medico-legal post mortem examination

10. A post mortem examination must only be conducted at a designated facility or at an institution to which the Service has referred the body.

Practitioners authorised to conduct or assist with post mortem examination

11. (1) A post mortem examination must only be performed by an authorised medical practitioner who has been appointed in the Service for such purposes.

(2) Assistance at a post mortem examination may only be rendered by authorised forensic pathology officers who have been appointed in the Service for such purposes, within their scope of practice.

(3) An authorised medical practitioner may consult with other qualified professionals and request such professionals to participate in the post mortem examination and contribute to the further examination of such a body.

(4) A student or trainee personnel in the Service may participate in a post mortem examination, but only under the direct guidance and supervision of an authorised person.

(5) A forensic pathology officer may remove a specimen or exhibit from the deceased under the instruction and supervision of an authorised medical practitioner.

(6) Where necessary, an authorised medical practitioner may authorise the removal of a fluid or tissue specimen by a forensic pathology officer or by a member of the SAPS Victim Identification Centre, prior to such removal.

(7) During the performance of post mortem examinations, the forensic pathology officer may perform eviscerations and organ removals under the supervision of an authorised medical practitioner and assist him or her with such post mortem examination and perform certain functions connected therewith, as contained within their scope of practice and job descriptions.

Additional evidence at post mortem examination

12. (1) Subject to any other law, an authorised medical practitioner may submit for examination, or cause to be submitted for examination, any tissue, fluid, object, or thing related to a body, to an appropriate institution, for purposes of establishing the cause and circumstance of a death of a person or for furthering the processes and administration of justice.

(2) Any party must, when requested by an authorised medical practitioner, provide full and appropriate information without delay pertaining to circumstances of death, including relevant medical records and or history.

(3) The authorised medical practitioner has the authority to decide to dissect a body, remove or cause to be removed, any part, organ or contents of a body for the purpose of determining the cause, manner and circumstance of death.

(4) The forensic pathologist in charge of the Service in that area may direct the attending authorised medical practitioner, to perform the post mortem examination in a manner which is appropriate to the case.

Practitioners authorised to observe post mortem examinations other than those contemplated in these Regulations

13. (1) Any person who demonstrates a material interest in the outcome of a particular post mortem examination, may apply to the magistrate within whose jurisdiction the case is being investigated or to the authorised medical practitioner, to allow an independent forensic pathologist or medical practitioner to attend and observe, that post mortem examination on behalf of the interested party.

(2) The consideration of the application referred to in sub-regulation (1), may not unduly delay the post mortem examination.

Protection of Records

14. (1) The person in charge of a designated facility must set up control measures in order to ensure that only authorised persons have access to records relating to post mortem examinations and to the storage facility in which records are kept.

(2) A person shall be guilty of an offence if he or she:-

- (a) fails to perform a duty imposed on them in terms of sub-regulation(1);
- (b) falsifies any record by adding to or deleting or changing any information

- contained in that record;
- (c) creates, changes or destroys a record without the authority to do so;
 - (d) fails to create or change a record when properly required to do so;
 - (e) provides false information with the intent that it be included in a record;
 - (f) without authority, copies any part of the record;
 - (g) without authority, connects the personal identification elements of a body's record with any element of that record that concerns the body's history;
 - (h) gains unauthorised access to a record or record-keeping system, including intercepting information being transmitted from one person or one part of a record-keeping system, to another;
 - (i) without authority, connects any part of a computer or other electronic system on which records are kept; or any other computer or electronic system;
 - (j) without authority, connects any part of a computer or any terminal or other installation connected to or forming part of any other computer or electronic system; or
 - (k) without authority, modifies or impairs the operation of any part of the operating system of a computer or other electronic system on which a body's records are kept; or
 - (l) without authority, connects any part of the programme used to record, store, retrieve or display information on a computer or other electronic system on which a body's records are kept;
 - (m) without authority, divulges or supply any type information about the death investigation processes and decedents to unauthorised parties including the media.

(3) The person in charge of a designated facility must keep a register in which any file or any part thereof, that is removed from the storage facility is recorded, and in which he or she must enter all particulars of the person authorised to remove such a file or any part thereof, purpose, date and time he or she removed and returned it.

Identification of body

15. (1) A body must, where visual identification is possible, only be identified by a spouse, partner, major child, parent, guardian, major brother, major sister, care-giver or any person with personal knowledge of the deceased and is in possession of his or her own authentic identification document and that of the deceased, validated by the Department of Home Affairs or the deceased person's consulate or embassy or country of origin.

(2) Where visual identification is not possible, scientific means of identification must be instituted by the authorised medical practitioner, supported by the South African Police Service.

(3) If the person identifying the body is not a relative as listed per sub-regulation (1), the appointed person must either have a letter from such a relative authorising them to proceed with the identification or must be accompanied by the family member(s). The correct contact details and address of that family member must be contained in the authorisation letter.

(4) Persons may not identify a deceased if:-

- (a) The informant appears to be under the influence of alcohol or an intoxicating substance;
- (b) The informant is a minor; or
- (c) A dispute arises between parties with regard to the custody of the body.

(5) The personal effects of the deceased may be handed to the person contemplated in sub-regulation (1), if the authorised person who conducted the post mortem examination is satisfied that such personal effects are not required as evidence or pose a health risk.

Release of body

16. (1) A body may only be released from the Service after -

- (a) the medico-legal investigation of death has been concluded;
- (b) where necessary, an appropriate tissue or blood sample has been harvested or other investigations done, in order to assist with the medico-legal investigation and to facilitate the scientific identification of the deceased;
- (c) the authorised medical practitioner has given approval for such release of the body; or
- (d) the spouse, partner, major child, parent, guardian, major brother, major sister, care-giver or duly authorised party has given a written consent for release of a body to a third party, or by an order of the Court.

(2) Where the person giving consent, as contemplated in sub-regulation(1), is unable to pay for the burial of the body, the local authority having jurisdiction of the area where the body was found, must provide for a pauper burial or cremation of such a body.

Unidentified body

17. (1) A body that has not been identified must be moved to a freezer within seven days of admission (after a set of fingerprints have been taken), and if such a body remains unidentified for 30 days and all prescribed steps to identify it have been followed, the local authority in which the body was found, must provide for a pauper burial of such a body.

(2) The Director-General may donate a body referred to in sub-regulation (1) or any part of that body, to any authorised institution for any purpose contemplated in section 62(3) of the Act.

Medico legal investigation of specific categories of unnatural deaths

18. (1) The South African Police Service must immediately notify the Head of the Clinical Department or Unit: Forensic Pathology of the region or province, of the following fatalities:-

- (a) fatalities associated with aircraft accidents, mass disasters, scuba- or other diving-related incidents;

- (b) the deaths of persons who die whilst detained by the South African Police Service or who died as a result of police action; and
- (c) the deaths of persons who die of unnatural causes whilst in the custody of the Department of Correctional Services.

(2) The post mortem examination of the deaths contemplated in sub-regulation(1), may only be performed by a registered forensic pathologist, as designated by the Head of Clinical Department or Unit: Forensic Pathology.

(3) The post mortem examination of persons contemplated in sub-regulation (1)(ii), may only be performed after the Independent Police Investigative Directorate have been informed of that death.

(4) The investigation of the following specific categories of unnatural deaths must be managed in consultation with a regional specialist forensic pathologist:-

- (a) acts of terrorism;
- (b) suspected Sudden Unexpected Death in Infants (SUDI);
- (c) the death of a child due to suspected non-accidental injury or neglect;
- (d) the presumed homicidal death of any member of the South African National Defence Force and South African Police Service;
- (e) fatalities where sexual assault is suspected;
- (f) the death of a person while attending a traditional initiation school;
- (g) the unnatural death of any resident in public or private institution, which includes but is not limited to: psychiatric facilities; places of safety; drug and addiction rehabilitation facilities; refugee facilities; older persons care facilities; facilities for the physically and mentally challenged.

National forensic pathology service committee

19. (1) The Minister must, in terms of section 91(1) of the Act, establish an advisory committee known as the National Forensic Pathology Service Committee to advise the Minister on:

- (a) policy concerning any matter that will ensure, promote, improve or maintain forensic pathology services;
- (b) norms, standards and guidelines for the rendering of forensic pathology services, including health and safety standards and the minimum standards for accreditation of forensic mortuaries;
- (c) any technical matter related to forensic pathology services that may have an impact on health policies and strategies; and
- (d) any other aspect impacting on the rendering of a forensic pathology service.

Accounting and reporting requirements

20. The Provincial Head of Department must submit annual returns of statistics and reports related to the Service to the National Director-General in a format determined by the National Director-General from time to time.

Offences

21. (1) Any person who fails to comply with any of the provisions of these Regulations is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

(2). Any person that interferes with an authorised person in the execution of his or her duties is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

Delegation

22. (1) The Head of Department or the Provincial Head of the Service may, in writing, and on such conditions as he or she may determine, delegate or assign any power or duty to an official of the provincial department or staff of the designated facility, as the case may be, unless there is a specific prohibition of such delegation or assignment.


(2) A delegation or assignment made under sub-regulation (1) does not-

- (a) divest the Head of Department or the provincial head of the Service of the responsibility or accountability concerning the performance of the function involved; or
- (b) prohibit the performance of the function Involved by the Head of Department or the provincial Head of the Service.

(3) The Head of Department or the Provincial Head of the Service may amend or set aside any decision taken by a person in the exercise of any such power delegated to that person.

Short title

23. These Regulations are called the Regulations Regarding the Rendering of Forensic Pathology Service, 2018.



DR AARON MOTSOALEDI, MP
MINISTER OF HEALTH

Date: 20/3/2018