

Investigation into the complaint of Mr. Mark Rand against Dr X

1 The Complaint

- 1.1 On 2 March 2007, Mr. Mark Rand, son of Mr. Robert Rand (deceased) lodged a complaint under s.23 of the *Health Complaints Act 1995* which alleged that on 26 November 2006, Dr X completed a medical certificate (commonly referred to as a death certificate), certifying the cause of Mr. Robert Rand's death without having examined his father's body. He also complained that prior to Mr. Robert Rand's death Dr X was not his treating medical practitioner.
- 1.2 Mr. Mark Rand claims that Dr X showed a lack of professionalism and decency by not attending his father's home and viewing his father's body, and by not personally delivering the medical certificate to his family.

2 Background

- 2.1 In Tasmania, when a death occurs, a doctor who was responsible for the deceased person's care immediately before death or who examines the body of the deceased person must notify and certify as to the cause of death in a form approved by the Registrar of Birth Deaths and Marriages, pursuant to s.35(1) & (3) *Births, Deaths and Marriages Registration Act 1999* (BDMRA). A doctor who has been notified of a death has further obligations under the *Burial and Cremation (Handling of Human Remains) Regulations 2005* (BCHHRR).
- 2.2 The sequence of events which occurred was that Mr. Robert Rand died at home overnight on 25/26 November 2006. Mr. Steven Rand, a son of the deceased, telephoned police at 7.30am requesting their attendance, and two police officers arrived at the Rand's home. This complied with r 5(1), BCHHRR.
- 2.3 Two ambulance officers were also in attendance and they attempted to contact Dr Z, the deceased's doctor, by telephone without success. The Tasmania Ambulance Service (TAS) officers left sometime later without having completed a declaration of life extinct and left Mr. Rand's body in the charge of one of the police officers on the understanding that he would make further attempts to contact the deceased's GP.
- 2.4 After discussion with the deceased's wife, one of the police officers telephoned Dr X at his home, as he was the most recent treating medical practitioner other than Dr Z, to ask him if he would issue the medical certificate. This satisfied r 5(2), BCHHRR.
- 2.5 Dr X had previously been Mr. Rand's medical practitioner¹ and had treated him as recently as one month before his death. He agreed to issue the medical certificate and stated that he did this to spare the family the lengthy and unnecessary process of a coroner's case. Dr X issued the

certificate without viewing Mr. Robert Rand's body, and the certificate was collected by the funeral director from Dr X's surgery and conveyed to the home of the deceased.

3 The Investigation methodology

- 3.1 Mr. Mark Rand's complaint and Dr X's response were considered and Mr. Mark Rand was given an opportunity to make further submissions.²
- 3.2 On 2 July 2007, enquiries were made of the Office of Birth, Deaths and Marriages as to the registration and certification process, and to ascertain if the declaration of life extinct form had been received by them.
- 3.3 On 8 August 2007, an enquiry was made to the Tasmanian Ambulance Service (TAS) as to whether a declaration of life extinct had been issued by the attending officers.
- 3.4 On 30 May 2007, a report was requested from the Deputy Commissioner of Police for information from the police officers who attended following the death of Mr. Robert Rand. A written reply was received dated 27 June 2007.
- 3.5 Research was undertaken into the legal requirements for certification of a death.
- 3.6 Advice was sought from the Medical Council of Tasmania³ (MCT) with regard to a medical practitioner's responsibilities and whether there is a requirement that the medical practitioner examine the deceased prior to supplying that certificate. The MCT were unable to find any policy guidelines, and held the view that it would be normal practice to view the deceased's body.
- 3.7 The preliminary investigation into this complaint was undertaken by Ms Therese Lesek, Intake and Assessment Officer. Ms Robyn Hopcroft assisted with the investigation.
- 3.8 The complaint is being considered under s 23(1)(c) which provides that a complaint may be made to the Health Complaints Commissioner on the ground that "*a health service provider acted unreasonably in the manner of providing a health service*".

4 Issues

The issues arising out of this complaint are as follows:

- 4.1 Whether Dr X was required to examine Mr. Robert Rand's body before issuing the required medical certificate under s 35(1) & (3) of the BDMRA?

- 4.2 Whether Dr X fulfilled his obligations under r 6 of the BCHHRR?
- 4.3 Whether a declaration of life extinct was issued by an ambulance officer in the form required under r 10 of the BCHHRR, and whether a duplicate copy was given to Dr X?
- 4.4 Whether Dr X was required to personally deliver the medical certificate to the deceased's family and would it be standard practice to do so?

5 Legislation

- 5.1 The BDMRA and the BCHHRR are relevant to the issues under investigation. The relevant regulations for the purposes of this complaint are r 3, 5, 6, 7, 8, 9, 10, and 18. This legislation is set out in Attachment A.
- 5.2 The relevant section of the BDMRA⁴ for the purposes of this complaint is s. 35 Notification of death by doctor. It outlines a timeframe in which the doctor must notify the Registrar of Births Deaths and Marriages of the death and the cause of the death in the approved form; also the doctor must certify as to the cause of the death.
- 5.3 The BCHHRR came into operation on 1 July 2005, establishing the standards for the transportation, handling, identification and storage of human remains in order to facilitate the removal of the deceased person's body from the place of death. A new declaration of life extinct process was introduced which allows a *responsible person* delegated by a medical practitioner to complete a declaration of life extinct, to enable the removal of the body from the place of death, with a medical practitioner providing a medical certificate as to the cause of death at a later time. (See Attachments B and C for the approved forms for the certificate and declaration.) The amendments were to address the practical difficulties which prevented the timely removal of the deceased's body if a medical practitioner could not attend to issue the certificate⁵.

6 Whether Dr X was required to examine the deceased?

- 6.1 The primary issue for investigation is whether Dr X was required to examine Mr. Rand's body before issuing the medical certificate. Through the combined effect of s 35⁶ of the BDMRA and r 6 of the BCHHRR, a medical practitioner is not required to attend to examine the deceased's body if the doctor had been responsible for that person's medical care immediately prior to that person's death and if another medical practitioner or a responsible person under the BCHHRR completes a declaration of life extinct.
- 6.2 The definition of a *responsible person* under r 3 BCHHRR " means a nurse, or a paramedic, or an officer of the Ambulance Service qualified to at least Ambulance Officer level, or any other person who, in the opinion of a medical practitioner, has the knowledge and skills necessary to determine if the person who has been notified as dead is in fact dead, and

the death is a reportable death". Under this definition and r6 a responsible person could include a police officer, but it is not the practice in Tasmania for police officers to assume these responsibilities.⁷

- 6.3 Dr X was not Mr. Rand's primary treating practitioner, but had recently been his medical practitioner and was aware of his age and medical condition. Had a *responsible person* (or another medical practitioner) completed a declaration of life extinct naming Dr X then Dr X would not have been required to attend and examine Mr. Rand and could have issued the certificate on the basis of his knowledge of Mr. Rand's age and medical condition provided that a *responsible person* (or another medical practitioner) had examined the body and completed a declaration of life extinct.⁸
- 6.4 It appears that Dr X may have been under the impression that such a declaration had issued. He stated that the police officer who telephoned him, told him that he had identified Mr. Rand and "certified him dead". The officer advised Dr X that he could not get in touch with Dr Z, and requested that Dr X "issue the death certificate as the only other doctor that treated him in the period near to his death."⁹
- 6.5 Dr X stated that being so familiar with Mr. Rand's morbidity he agreed to issue the death certificate "*especially considering that the police officer certified his death, identified the body, and confirmed no suspicious circumstances*". Also, he was satisfied that Mr. Rand's "*conditions, together with the worsening of his condition over 2006, at the age of 80 years, explained his death which was not unexpected*". Dr X had treated Mr. Rand a month earlier, and refreshed his memory by re-examining his medical practice records. The form of medical certificate approved by the Registrar for the purposes of s 35(3) BDMRA only requires the certifying practitioner to say that he or she "attended the above named deceased during the last illness", which Dr X had. It is reasonable to conclude that Dr X as able to accurately complete the medical certificate as to the cause of death without examining Mr. Rand.
- 6.6 The police officer who attended needed to notify a medical practitioner of the death as soon as possible, to comply with r 5(2) of the BCHHRR. This did not have to be Mr. Rand's treating GP Dr Z, but it was reasonable for the officer to try and contact Dr Z because, as the doctor responsible for Mr. Rand's medical care before death, he could fulfill the notice and certification requirements of s 35 of the BDMRA, without viewing the body.
- 6.7 However, in the absence of a responsible person or another medical practitioner having issued a declaration of life extinct, Dr X was required to attend and examine Mr. Rand's body. On balance his statement that he understood that such a declaration had issued is accepted. His statement that his decision to issue the medical certificate was motivated

by his desire to spare the family the lengthy and unnecessary process of a coroner's case is also accepted. He could have refused.

7 Whether Dr X fulfilled his obligations under r 6 of the BCHHRR?

- 7.1 As indicated above (2.4) as Dr X had been notified of a death, he was obliged under r 6 (1) BCHHRR to take one of the following actions; attend the place of death, arrange for another medical practitioner to attend, or arrange for a responsible person to attend. Dr X was unaware of his obligations under r 6(1) and so did not do any of these things.
- 7.2 As indicated above (6.4) Dr X was of the belief that the police and ambulance crew had already certified Mr. Rand as being deceased and so did not attend the place of death as he was sufficiently familiar with Mr. Rand's morbidity in order to issue the medical certificate.
- 7.3 As it transpired there was no declaration of life extinct issued by a *responsible person* and under these circumstances Dr X should have attended or arranged for another medical practitioner or a responsible person to attend.
- 7.4 As indicated above, the ambulance officers had already left before it was ascertained that a medical practitioner willing to issue the certificate had been contacted. Further, it is not the practice in Tasmania for police officers to assume the statutory role of *responsible persons*. It appears that there was some miscommunication in that Dr X appears to have understood that a declaration of life extinct had been made by a *responsible person*. If Dr X had been aware of his obligations under r 6 (1) BCHHRR and that a declaration of life extinct had not issued, then he could have arranged for another *responsible person* or another medical practitioner to attend for that purpose.
- 7.5 The conclusion is that Dr X did not attend the place of death to examine the body and so, in order to issue the medical certificate, he was obliged under r6 BCHHRR to arrange for a responsible person or another medical practitioner to attend the place of death to complete a declaration of life extinct naming him as the medical practitioner who was to issue the medical certificate. That person must have been a person whom Dr X believed was willing and capable of determining that the deceased was in fact dead.

8 Whether a declaration of life extinct was issued by an ambulance officer in the form required under r 10 of the BCHHRR, and whether a duplicate copy was given to Dr X?

- 8.1 Dr X told the police officer he would issue the medical certificate certifying the cause of death, which he did, and gave it to the funeral director in compliance with S. 35(3) of the BDMRA. Police and ambulance officers were in attendance at the deceased's home but a declaration of life extinct in the approved form was not completed in

accordance with r 10 BCHHRR as at that stage the identity of the medical practitioner willing to issue a certificate had not been ascertained.

- 8.2 As a declaration of life extinct under r 9(1) BCHHRR had not issued the only way under r 18 BCHHRR that the deceased's body could have been lawfully removed from the home by the funeral director was by the issue of a medical certificate from an attending medical practitioner (unless the death was to be treated as a coroner's case).
- 8.3 If a declaration of life extinct had been made that would have satisfied the requirements of r18 BCHHRR, and the medical certificate could have been provided later.
- 8.4 Another possible scenario is that the declaration of life extinct could have been made by the attending ambulance officers if at that time they had been able to ascertain that Dr X was to issue the medical certificate.
- 8.5 The finding is that a declaration of life extinct in the form required under r10 of the BCHHRR was not issued in relation to the death of Mr. Robert Rand and hence Dr X did not receive a duplicate copy nor was the triplicate lodged with the Registrar Births, Deaths and Marriages.
- 8.6 There appears to have been some miscommunication between Dr X, the police officers and the TAS officers, and a lack of knowledge and understanding on the part of the police officers and Dr X of each other's responsibilities when dealing with a death.
- 8.7 The conclusion is that there was a failure to adequately comprehend the precise requirements of the legislation and the statutory requirements and options in varying circumstances. This is not surprising as the statutory scheme is unduly complex. This is an issue which needs to be addressed jointly by the Department of Justice (which administers the BDMRA) and the Department of Premier and Cabinet (which administers the *Burial and Cremation Act 2002*). I recommend that the Departments consider how the legislative scheme might be simplified, and develop clear guidance for medical practitioners and others on their obligations under the current scheme and under whatever legislation results.

9 Whether Dr X was required to personally deliver the medical certificate to the deceased's family and would it be standard practice to do so?

- 9.1 There are varying versions regarding the collection of the medical certificate but these are minor issues. The police version is that Dr X told a police officer who had telephoned him that he needed to go to his clinic to check the history of the deceased and that he would call police later to confirm whether he would issue the death certificate. Dr X contacted police later to say he would issue the certificate and asked if police could collect the death certificate from the clinic at 11am. Tasmania Police indicated that police collected the certificate, whereas Dr X stated that the funeral director collected the certificate from his surgery desk.
- 9.2 Mr. Mark Rand states that the Rand family and the funeral director were waiting for Dr X to arrive at 10am at his father's home to issue the certificate. The funeral director was told by 'GP assist' that Dr X would be issuing the medical certificate, so he telephoned Dr X, left the Rand home and arrived back in half an hour with the medical certificate. The funeral director stated he drove to Dr X's surgery and was met in the car park by a lady who handed the certificate to him from her car.
- 9.3 These matters are minor, but the conclusion is that the funeral director attended Dr X's practice and was handed the certificate by a person associated with the practice who it appears was expecting him.
- 9.4 Under s 35(3) of the BDMRA, Dr X being the doctor certifying the cause of Mr. Rand's death, was required to give the original medical certificate in the approved form to the Registrar of Births Deaths Marriages and a copy to the funeral director or other person who would be arranging for the disposal of the human remains, both of which were done.

- 9.5 It appears in making this complaint that Mr. Mark Rand expected that it would be a normal practice for Dr X to examine his father's body and to deliver the medical certificate certifying the cause of death to his family. He was critical of what he perceived as a lack of professional courtesy. What needs to be considered is that Dr X need not have agreed to issue the certificate. He agreed so that the family could avoid the attendant delays which could have occurred had another medical practitioner not been available to issue the certificate.
- 9.6 Dr X was not required to deliver the certificate to Mr. Rand's family, but to the funeral director or other person who would be arranging for the disposal of Mr. Rand's body. Dr X, whose surgery was about five minutes away, could have delivered the medical certificate personally to the funeral director who was at the Rand family home. Dr X stated this was not an option as he was busy at the surgery attending to patients. This is accepted as a reasonable explanation.
- 9.7 Mr. Mark Rand questioned this, as he believed that Dr X's surgery did not operate on a Sunday. Regardless of whether or not Dr X was occupied with patients, it needs to be borne in mind that he was not Mr. Rand's principal medical practitioner; he had agreed to issue the certificate to save the family delays and was under no professional or statutory obligation to deliver the certificate personally.

10 The need to simplify the legislative scheme

- 10.1 The conclusion is that clear information needs to be formulated to assist those who have responsibilities relating to attending deceased persons for the purpose of providing the necessary certifications for registering death. Simplification of the legislative scheme should also be considered. Attachment D contains a précis of the existing requirements. Attachment E is a flowchart prepared by TAS for Ambulance officers.

11 Conclusions

- 11.1 Dr X could have issued the medical certificate under s. 35 of the BDMRA without the need to attend and examine Mr. Rand's body, if he had arranged for a responsible person to attend under r6(1)(c) BCHHRR.¹⁰ Alternatively he could have attended the place of death or arranged for another medical practitioner to attend instead and issue the medical certificate.
- 11.2 Dr X did not comply with his obligations under r 6(1) of the BCHHRR. A declaration of life extinct was not issued in the form required under r10 of the BCHHRR and a duplicate copy was not given to Dr X. Dr X, in his response to the preliminary report, believed that the ambulance officers had completed the declaration of life extinct. I am satisfied that Dr X did not meet his obligations under the legislation, but that on balance he

believed that a *responsible person* had completed the declaration and that he need not attend and examine the deceased.

- 11.3 Under s 35(3) BDMRA Dr X was required to give the medical certificate to the funeral director or other person who would be arranging for the disposal of Mr. Rand's body, and therefore was not required to personally deliver a copy of the medical certificate to the deceased's family. Based on the available evidence I am satisfied that Dr X did arrange for the medical certificate to be given to the funeral director.
- 11.4 The current legislation, which provides only limited authority for qualified ambulance officers to declare life extinct, has created significant confusion among police, medical practitioners and to a lesser extent undertakers. There is some anecdotal evidence to suggest that police pressure ambulance officers to certify life extinct by completing Form 1, as they feel uncomfortable being responsible for a patient who is not legally deceased.
- 11.5 The conclusion is that qualified ambulance officers should be able to certify life extinct in all cases rather than the current limited authority. For instance, an ambulance officer might attend a motor vehicle accident where a person is a deceased patient and because of factors such as entrapment of the deceased, travel time for the mortuary ambulance and police investigations the ambulance officers might be at the scene for an hour or more, but cannot legally certify the patient as deceased. In many cases the ambulance officers will notify police that a patient is deceased and leave the scene with the deceased person left in the charge of police (without life having been formally declared extinct).¹¹
- 11.6 Under the limited authority of the current legislation ambulance officers are able to act as the *responsible person* and certify life extinct if they have been nominated by a medical practitioner to attend the place of death. Such a nomination can only occur if the ambulance officer is capable of carrying out, and willing to carry out, what is necessary. If a medical practitioner responsible for the deceased's medical care immediately before death cannot be contacted or no medical practitioner is willing to attend the place of death and examine the body then the deceased is left in the custody of the police as a potential coroner's case, in which case r18(1) BCHRR requiring a medical certificate or a declaration of life extinct in order to move the body, does not apply. It seems that some time later the body will be examined by an emergency department doctor in order to confirm that life is extinct and complete the necessary form.

12 Recommendations

It is recommended that:

- 12.1 the Department of Justice and Department of Premier and Cabinet jointly review the legislation regarding the process of certification of death and

declaration of life extinct with a view to simplifying the statutory provisions.

- 12.2 the limited authority of TAS authorised officers to declare life extinct cover all situations, including reportable deaths under the *Coroners Act 1995*.
- 12.3 the Department of Premier and Cabinet and the Department of Justice jointly take steps towards providing clear guidance for medical practitioners and others on what their obligations and options are under the current legislative scheme, and under whatever may perhaps replace it after the provisions are reviewed.

13 Responses to the Preliminary Report

- 13.1 Mr. Mark Rand repeated his previous comments about Dr X's professional conduct.¹²
- 13.2 The Department of Health and Human Services (DHHS) with TAS submitted that they fully supported the preliminary conclusions and recommendations in so far as they relate to the current legislation with its limited authority to declare life extinct by qualified ambulance officers. They supported a review of the legislation and recommendations stating their view that: *"the recommendations if implemented will reduce confusion between police, medical practitioners and undertakers and be more workable than existing arrangements"*.
- 13.3 Dr X supported the recommendation to simplify the system. He stated his belief that both the police and ambulance officers were responsible persons who had already attended the place of death.¹³ It was accepted that he provided the medical certificate to assist the Rand family.
- 13.4 Dr X found the investigation into this complaint stressful and this is acknowledged and regretted. As a result of this complaint he stated that "most of the GPs in Devonport whom I have made aware of this report and the regulations will refuse from now on to issue medical certificates for any patients apart from their own patients, and certainly not without sighting a Certificate of Life Extinct". He predicts "this situation will certainly increase stress and anguish into the community, and definitely increase the Coroner's workload with many unnecessary cases."
- 13.5 The Medical Council of Tasmania concurred with the report's recommendations.

Tuesday, November 29, 2007

*Births, Deaths and Marriages Registration Act 1999***35. Notification of death by doctor**

(1) A doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must, within 48 hours after the death, notify the Registrar of the death and of the cause of death in a form approved by the Registrar.

Penalty:

Fine not exceeding 10 penalty units.

(2) A doctor need not give notice under this section if-

- (a) another doctor has given the required notice; or
- (b) a coroner or a police officer is required to be notified of the death under the *Coroners Act 1995*.

(3) When notice of a death is given, the doctor must also give a certificate in a form approved by the Registrar, certifying the cause of death, to -

- (a) the Registrar; and
- (b) the funeral director or other person who will be arranging for the disposal of the human remains.

Penalty:

Fine not exceeding 10 penalty units.

(4) Notice provided to the Registrar under this section is to be provided free of charge.

*Burial and Cremation (Handling of Human Remains) Regulations 2005***3. Interpretation**

"**declaration of life extinct**" means a declaration of life extinct referred to in regulation 10;

"**medical certificate**" means a certificate certifying the cause of death given under section 35(3) of the *Births, Deaths and Marriages Registration Act 1999*;

"**medical practitioner**" means registered medical practitioner as defined in the *Medical Practitioners Registration Act 1996*;

"**nurse**" means nurse as defined in the *Nursing Act 1995*;

"**officer of the Ambulance Service**" means officer of the Ambulance Service as defined in the *Ambulance Service Act 1982*;

"**reportable death**" means reportable death as defined in the *Coroners Act 1995*;

"**responsible person**" means -

- (a) a nurse, or
- (b) a paramedic, or
- (c) an officer of the Ambulance Service qualified to at least Ambulance Officer level, or
- (d) any other person who, in the opinion of a medical practitioner, has the knowledge and skills necessary to determine if -
 - (i) the person who has been notified as dead is in fact dead; and
 - (ii) the death is a reportable death

5. Notification of death

(1) If a person reasonably believes that another person has died he or she is to notify any of the following persons of that death as soon as is practicable:

- (a) a police officer;
- (b) a medical practitioner;
- (c) a nurse;
- (d) an officer of the Ambulance Service;
- (e) a paramedic.

(2) A police officer, nurse, officer of the Ambulance Service or paramedic who is notified of a death under sub regulation 1 to notify a medical practitioner of that death as soon as is practicable.

6. Action to be taken by medical practitioner after notification of death

(1) A medical practitioner who receives notification of a death under regulation (5)(1)(b) or regulation 5(2) is to take one of the following actions within 8 hours after receiving that notification:

- (a) attend the place of death;
- (b) arrange for another medical practitioner to attend the place of death;
- (c) arrange for a responsible person to attend the place of death.

(2) A medical practitioner is not to make an arrangement for a responsible person to attend a place of death under sub regulation (1) (c) unless the responsible person is capable of carrying out, and willing to carry out, that arrangement.

(3) Another medical practitioner with whom an arrangement is made under sub regulation (1)(b) is to attend the place of death within 8 hours after notification is received under regulation 5.

(4) A responsible person with whom an arrangement is made under sub regulation (1)(c) is to attend the place of death within 8 hours after notification is received under regulation 5.

7. Action to be taken by medical practitioner after attending place of death

(1) A medical practitioner who attends a place of death under regulation 6(1)(a) or (b) is to –

- (a) issue a medical certificate if satisfied that –
 - (i) the person who has been notified as dead is in fact dead; and
 - (ii) the death is not a reportable death; and
 - (iii) an identification tag is attached to the human remains in accordance with regulation 13; or

(b) issue a declaration of life extinct if satisfied that–

- (i) the person who has been notified as dead is in fact dead; and
- (ii) an identification tag is attached to the human remains in accordance with regulation 13; or

(c) notify a police officer or a coroner of the death, if the medical practitioner believes that the death –

- (i) is a reportable death; or
- (ii) may not have been due to natural causes.

(2) On issuing a declaration of life extinct under sub regulation (1)(b), a medical practitioner is to–

- (a) issue a medical certificate, if satisfied that the death is not a reportable death; or

(b) specify in the declaration of life extinct the name of another medical practitioner who has agreed to issue a medical certificate.

8. Action to be taken by medical practitioner after receipt of duplicate copy of declaration of life extinct

After receiving a duplicate copy of a declaration of life extinct under regulation 10(3)(b), a medical practitioner is to issue a medical certificate.

9. Action to be taken by responsible person after attending place of death

- (1) A responsible person who attends a place of death under regulation 6(1)(c) is to –
- (a) issue a declaration of life extinct if he or she is satisfied that –
 - (i) the person who has been notified as dead is in fact dead; and
 - (ii) an identification tag is attached to the human remains in accordance regulation 13;
 - or
 - (b) notify a police officer or a coroner of the death, if the responsible person believes that the death–
 - (i) is a reportable death; or
 - (ii) may not have been due to natural causes.
- (2) A responsible person who issues a declaration of life extinct under sub regulation (1) is to specify in that declaration –
- (a) the name of the medical practitioner who, in accordance with regulation 6(1)(c), arranged for that responsible person to attend the place of death; and
 - (b) the name of the medical practitioner who is to issue a medical certificate.

10. Form of declaration of life extinct

- (1) A declaration of life extinct is to be in a form determined by the Director of Local Government and is to contain any information that, in the interests of public health or public safety, he or she considers appropriate.
- (2) The declaration of life extinct is to be issued in triplicate.
- (3) The person completing the declaration of life extinct is to, as soon as is practicable –
- (a) hand the original copy of the declaration to the person who apparently has custody of the human remains; and
 - (b) forward the duplicate copy of the declaration to the medical practitioner named in the declaration as the medical practitioner who is to issue a medical certificate; and
 - (c) forward the triplicate copy of the declaration to the Registrar of Births, Deaths and Marriages.
- (4) A person must not complete a declaration of life extinct if that person –
- (a) is knowingly related to the deceased person; or
 - (b) has had any recent fiduciary relationship with the deceased person; or
 - (c) has any pecuniary interest in the estate of the deceased person.

Penalty:

Fine not exceeding 20 penalty units.

18. Transportation of human remains for cremation or internment

(1) A person must not transport human remains to any place or premises to prepare those remains for cremation or internment unless a medical certificate or a declaration of life extinct has been issued in accordance with these regulations.

Penalty: Fine not exceeding 20 penalty units.

(2) Sub regulation (1) does not apply if the death of a person is, or may be, the subject of an investigation under Part 5 of the *Coroners Act 1995*.

ATTACHMENT B Medical Certificate of Cause of Death

Medical Certificate of Cause of Death		Office use Only	
		Date received...../...../.....	Death Reg. No.....
Details of Deceased			
Surname			
First names (in full)			
Sex	<input type="checkbox"/> Male	<input type="checkbox"/> Female	Date of death <input type="text"/> / <input type="text"/> / <input type="text"/>
Place of death			
Age at death	<input type="text"/>	(show age in completed units—years (y) or months (m) or days (d) or hours (h) or minutes (min))	
Was the deceased of Aboriginal or Torres Strait Islander origin? (if both, tick both "Yes" boxes)			
	<input type="checkbox"/> No	<input type="checkbox"/> Yes, Aboriginal origin	<input type="checkbox"/> Yes, Torres Strait Islander origin
Date last seen alive by me			
Coroner	Is this death being, or has it been reported to the Coroner? <input type="checkbox"/> No <input type="checkbox"/> Yes		
Post mortem status	<input type="checkbox"/> Not to be conducted	<input type="checkbox"/> Has been conducted	<input type="checkbox"/> Yet to be conducted
Cause of Death Details			
	Part I	Cause	Approximate interval between onset and death
Disease or condition (a) directly leading to death			
	due to		
This means the disease, injury or complication which caused death—not only the mode of dying, such as heart failure, respiratory failure, etc.			
Antecedent causes (b) – (e)			
	due to		
Morbid conditions, if any, giving rise to the above cause, stating the underlying condition last			
	due to		
	due to		
	due to		
Part II			
Other significant conditions contributing to the death but not related to the disease or condition causing it			
Other Details			
Operations	Was an operation performed on the deceased within 4 weeks before death? <input type="checkbox"/> No <input type="checkbox"/> Yes (if "Yes" specify below)		
Type of operation			
Disease/condition			
Pregnancy	Was the deceased pregnant within 6 weeks of death? <input type="checkbox"/> No <input type="checkbox"/> Yes		
	Was the deceased pregnant between 6 weeks and 12 months of death? <input type="checkbox"/> No <input type="checkbox"/> Yes		
Injury	Was an injury/external cause involved in the death? <input type="checkbox"/> No <input type="checkbox"/> Yes (if "Yes" specify below)		
Manner of death (tick one box only)	<input type="checkbox"/> Natural	<input type="checkbox"/> Accident	<input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending <input type="checkbox"/> Could not be determined Investigation
Certification			
I hereby certify that I attended the abovenamed deceased during the last illness and that the particulars and cause of death written above are true to the best of my knowledge and belief. (Please print name and address)			
Name		Phone	
Address			
Signature		Date	

Form CODMIP (Medical Practitioner) Form CODFD (Funeral Director) Form CODR (Registry of Births, Deaths and Marriages)

Burial and Cremation (Handling of Human Remains) Regulations 2005

FORM 1

DECLARATION OF LIFE EXTINCT

I, being a medical practitioner, OR
(Full Name of Person Making Declaration)

having been appointed as a *Responsible Person** by

.....
(Full Name of the name of medical practitioner)

hereby declare that the body identified to me as

.....
(Full Name of Deceased Person)

situated at
(Location of Deceased Person at Time of Issuing this Declaration)

does not display any recognisable signs of life.

(If a Responsible Person) I further declare that

.....
(Name of Medical Practitioner)

has indicated that a medical certificate will be issued within 48 hours.

Identification tag attached (please tick)

Signed by
(Signature of Medical Practitioner or Responsible Person)

Contactable at
(Contact Details of Medical Practitioner or Responsible Person)

Time
(Time of Issuing Declaration)

Date
(Date of Issuing Declaration)

* A "responsible person" under these Regulations is defined as:

- a nurse, as defined in the *Nursing Act 1995*; or
- a paramedic, as defined in the *Ambulance Service (Fees) Regulations 2001*; or
- an officer of the Ambulance Service qualified to at least Ambulance Officer level; or
- any other person who, in the opinion of a medical practitioner, has the knowledge and skills necessary to determine if - (i) the person who has been notified as dead is in fact dead; and (ii) the death is a reportable death.

Distribution:

- Original - to accompany body and be retained by Manager of a Prescribed Business or other person in charge of the body
- Duplicate - To be forwarded to the Medical Practitioner issuing the Medical Certificate of Cause of Death
- Triplicate - To be forwarded to the Registrar of Births Deaths and Marriages GPO Box 198 HOBART 7001 or fax to 0662 33 6444

1. What a medical practitioner should do when notified of a death.

Having received notification of a death a medical practitioner can decide to issue the medical certificate (under s 35, BDMRA) certifying cause of death or not, and take one of the following actions within 8 hours of receiving that notification:

- (a) attend the place of death
- (b) arrange for another medical practitioner to attend the place of death
- (c) arrange for a responsible person to attend the place of death.

A medical practitioner who attends a place of death is to:

- (a) issue a *medical certificate* under s 35, BDMRA if satisfied that the person notified as dead is in fact dead, and the death was not a reportable death, and an identification tag is attached to the human remains, or
- (b) issue a *declaration of life extinct* if satisfied that the person who has been notified as dead is in fact dead and an identification tag is attached to the human remains, or
- (c) notify a police officer or a coroner if the medical practitioner believes that the death is a reportable death or may not have been due to natural causes.

On issuing a *declaration of life extinct*, the medical practitioner is to:

- a) issue a medical certificate if satisfied that the death is not a reportable death or
- b) specify in the declaration of life extinct the name of another medical practitioner who has agreed to issue a medical certificate.

The declaration of life extinct is to be issued in triplicate using the form in Attachment C.

A medical practitioner after receiving a duplicate copy of a *declaration of life extinct* is to issue a medical certificate.

A doctor who is responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must within 48 hours after the death, notify the Registrar of the death and cause of the death in a form approved by the Registrar. A doctor need not give that notice if another doctor has given the required notice, or a coroner or a police officer is required to be notified of the death under the *Coroners Act 1995*. When a notice of death is given, the doctor must also give a certificate in a form approved by the Registrar, certifying the cause of death to the Registrar, or the funeral director or other person who will be arranging for the disposal of the human remains [See Attachment B].

2. What a responsible person should do when notified of a death by a medical practitioner, where that person has agreed to be the responsible person under the BCHHRR.

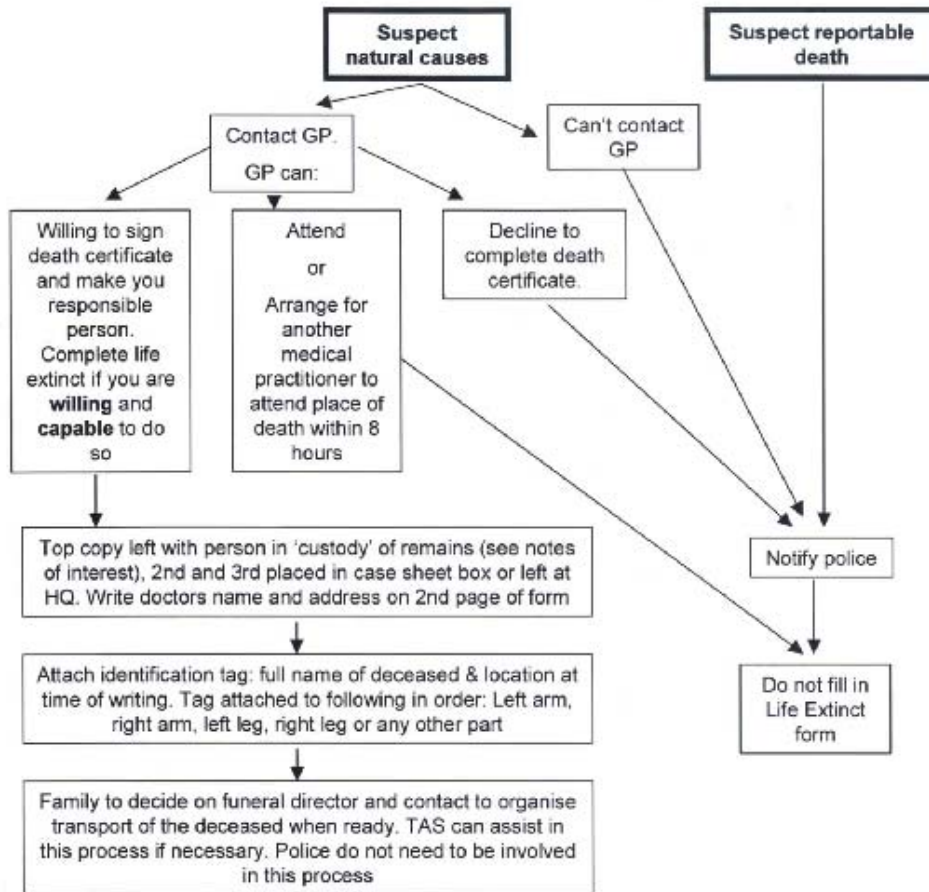
A responsible person under r 3 of the BCHHRR means a nurse, or a paramedic, or an officer of the Ambulance Service qualified to at least Ambulance Officer level, or any other person who, in the opinion of a medical practitioner, has the knowledge and skills necessary to determine if , the person who has been notified as dead is in fact dead, and if the death is a reportable death.

A responsible person who attends a place of death is to issue a declaration of life extinct on the form in Attachment C, if satisfied that the person notified as dead is in fact dead, and if an identification tag is attached to the human remains.

Upon the issue of a *declaration of life extinct*, the *responsible person* is to specify the name of the medical practitioner who has arranged for that person to attend the place of death, and the name of the medical practitioner who is to issue the medical certificate. The declaration of life extinct is to be issued in triplicate to the appropriate persons mentioned on the form.

If a death may not have been due to natural causes and is a reportable death then a police officer or a coroner is to be notified of the death.

Flowchart prepared by TAS for Ambulance Officers

**Notes of Interest**

- GP issues death certificate once receives "Life Extinct" form
- TAS are not 'obligated' to fill out "Life Extinct" form. We do not attend deaths for the specific purpose of filling in form
- You can only act as the "Responsible Person" when nominated by the Medical Officer
- Funeral directors cannot transport body without "Life Extinct" form
- You as a responsible person must not be related to or have fiduciary or pecuniary interest in the deceased person
- You must ensure the person that is deceased is *in fact* the deceased. There must be no uncertainty that the name of the deceased is actually that person. Identity must be proven, family or friends or a drivers licence can be utilised. If you cannot verify identity to your satisfaction do not fill in the "Life Extinct" form! Notify police
- Family or friends may be left in "custody" of the deceased. They need to be advised to give the completed "Life Extinct" form to the undertaker or police upon their arrival
- **References** Tasmanian Burial and Cremation (Handling of Human Remains) regulations 2005 (S.R. 2005 No.56)

¹ Dr X had treated Mr. Rand for 3 years from December 2003 to October 2006, and he was aware of his medical condition and was satisfied that it had worsened over 2006. In his view, given that Mr. Rand was 80 years of age, and having regard to his medical condition, his death was not unexpected.

² Dr X provided a written response on 19 March 2007. Mr. Mark Rand's reply to Dr X's response was received on 4 April 2007, and enclosed a letter from the funeral director who attended on that day.

³ On the 20 March 2007 the MCT were provided with a copy of the complaint and Dr X's response, and they were consulted on whether the complaint should be referred in accordance with s. 25 of the Health Complaints Act 1995 or whether it should be dismissed. They did not seek a referral.

⁴ The BDMR is an act to provide for uniform legislation in relation to the registration of births, deaths and marriages, and to provide for the rights of persons who have undergone sexual reassignment surgery.

⁵ See Department of Premier and Cabinet's Website - Local Government Office.

⁶ S 35 (1) provides that " *a doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must within 48 hours after the death, notify the Registrar of the death and of the cause of the death in a form approved by the Registrar.*"

⁷ A person who, in the opinion of a medical practitioner has the knowledge and skills necessary to determine if a person is in fact dead and the death is a reportable death can issue a *declaration of life extinct*.

⁸ The purpose of the regulation enabling a *responsible person* to complete a declaration of life extinct, is to enable the doctor who was responsible for a person's medical care immediately before death and had knowledge of that person's medical history to certify the cause of death without being required to examine the body.

⁹ Dr X was not Mr. Rand's primary treating doctor immediately before his death. Even though Mr. Rand had transferred to Dr Z at another practice, Dr X had prescribed medication for him in the month prior to his death. Mr. Rand's medical condition was well known to Dr X, as he had treated him for 3 years from December 2003 to October 2006.

¹⁰ That arrangement could not have been made unless that responsible person was capable of carrying out and willing to carry out that arrangement which would entail issuing a declaration of life extinct. The responsible person would then name Dr X as the medical practitioner who was issuing the medical certificate, as Dr X had been one of Mr. Rand's treating doctors immediately prior to Mr. Rand's death.

¹¹ The practice in these circumstances is that the body is taken to an emergency department doctor who declares life extinct and completes form 1.

¹² Mr. Rand questioned Dr X's location on that day, submitting that if Dr X is saying he was at his surgery and the certificate was collected from the surgery why is the funeral director saying the certificate was handed to him by a lady in the car park outside the surgery. If Dr X was at the surgery why couldn't he make the five minute drive to his father's home and he disputes that Dr X was attending patients as the surgery would not operate on a Sunday. He stated that Dr X failed badly in his professional and moral duty by not attending his father's house to view his body and write the certificate.

¹³ Dr X was unaware of the regulations and restrictions placed upon ambulance officers to certify life extinct. He acknowledged that he issued a medical (death) certificate before sighting the declaration of life extinct.