STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ROBERT GORDON
DIRECTOR

Emergency Order Under MCL 333.2253 – Handling of Bodily Remains

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services (DHHS) identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, Governor Gretchen Whitmer issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended, MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended, MCL 10.31 et seq.

COVID-19 has exacted a painful toll on Michigan's population. As of May 3, there were 43,754 cases of COVID-19 diagnosed in Michigan, with 4,049 persons having perished from the virus. This sudden increase in deaths has placed a significant burden on some hospitals and funeral homes. To alleviate this burden, ensure the safe and proper handling of bodily remains, and ensure the deceased are treated with the utmost respect and dignity, I find that it is necessary to amend the timelines and authorizations pertaining to the disposition of bodies, and to relax certain licensing provisions for funeral directors.

In light of the above, and upon the advice of scientific and medical experts employed by the Michigan Department of Health and Human Services, I have concluded per MCL 333.2253 that COVID-19 has reached epidemic status in Michigan. I further conclude that control of the epidemic is necessary to protect the public health, and that it is necessary to establish procedures to be followed during the epidemic to insure continuation of essential public health services and enforcement of health laws. As provided in MCL 333.2253, these emergency procedures are not limited to the Public Health Code.

I therefore order that:

1. Compliance with some provisions of MCL 700.3206 is temporarily suspended such that:
   a. A health facility's or funeral director's attempts to locate a person with authority to control the final disposition of a dead human body under this section must be completed within 24 hours of death. If attempts to locate the person with authority to control the final disposition of the body are unsuccessful or such person affirmatively declines to exercise his or her right or fails to exercise his or her right, the medical examiner for the county in which the decedent was domiciled at the time of his or her death shall exercise the rights and powers under MCL 700.3206(1), or if the county of domicile at the time of death is unknown, the county in which the decedent died. However, if the person with authority to control the final disposition attempts to exercise that authority before final disposition is completed, the medical examiner may allow the person with original authority to control the final disposition to make determinations with respect to the body.
   b. A person with authority to control the final disposition of a dead human body under MCL 700.3206(1) must exercise such authority and complete arrangements within 48 hours of death. Failure to act within 48 hours of death forfeits the right to exercise control with respect to the body.

2. Compliance with certain statutes and rules is temporarily suspended such that:
   a. The holder of a license to practice mortuary science under Article 18 of the Occupational Code, MCL 339.1801 et seq., and other persons legally authorized to embalm, handle, transport, or oversee the care of dead human bodies may exercise their professional discretion without licensing sanction, regardless of statutory or regulatory deadlines that would otherwise apply where this is necessary given constraints on storage capacity as a result of the COVID-19 state of emergency.

   b. The holder of a license to practice mortuary science under Article 18 of the Occupational Code, MCL 339.1801 et seq., or a county medical examiner, may authorize the embalming of a dead human body without obtaining direction or authorization from a person with authority to control final disposition of the body under MCL 700.3206 after the timeframes described in paragraph 1(a) and (b) above have elapsed if the medical examiner or mortuary science licensee determines that embalming the dead human body is reasonably necessary to prevent or delay decomposition pending final disposition of the dead human body. Embalming of the dead human body shall be done only by the holder of a license to practice mortuary science or other person authorized to do so by Article 18 of the Occupational Code, MCL 339.1801 et seq.

   c. The holder of a license to practice mortuary science under Article 18 of the Occupational Code, MCL 339.1801 et seq., need not secure a burial transit permit as may be required by Administrative Rule 325.3 through 325.4 from a local registrar's office but may use copies of the prescribed form he or she has on hand to directly issue and maintain burial transit permits with a copy of such a permit to accompany the body to its final disposition.

3. Compliance with MCL 333.2653(2) is temporarily suspended such that an official of a public institution or a state or local officer in charge or control of an unclaimed body that would have to be buried at public expense need not make the unclaimed body available to DHHS, nor to any institution designated by DHHS.

4. Where the 24 hour period set forth in section (1)(a) of this order expires, or where the 48 hour period set forth in section (1)(b) of this order expires, a body is deemed to be an "unclaimed body" as that term is defined in MCL 333.2653(1).

5. Medical examiners are directed to authorize cremation orders as quickly as possible, but in no event later than 24 hours after a request for cremation. However, the body of a person who died under suspicious circumstances or otherwise died as the result of criminal activity must not be cremated without explicit authorization from the medical examiner.

6. The holder of a license to practice mortuary science under Article 18 of the Occupational Code, MCL 339.1801 et seq., may shelter and store the remains of a dead human body at a temporary storage facility provided by the Michigan Mortuary Response Team (MI-MORT) or at an alternate site procured by the license holder, provided that the sheltering and storage is conducted under that licensee's direct supervision and control. The alternate storage facility must be able to store remains in an appropriate and respectful manner. If a hospital utilizes alternate facilities for storage of remains, it must properly notify the designated mortuary science licensee of the alternate location of the human remains so as not to delay the embalming, handling, transporting, or overseeing of the remains of the decedent.
7. Where MI-MORT takes custody of an unclaimed body, the MI-MORT commander may designate MI-MORT members to complete applications for state emergency relief funding for the disposition of such a body.

8. Compliance with MCL 339.1806(8)(c) is temporarily suspended such that the Department of Licensing and Regulatory Affairs (LARA) may electronically issue a temporary mortuary science license to an individual who holds a valid license in another state that is in good standing and that has substantially equal requirements to the requirements under Article 18 of the Occupational Code, MCL 339.1801 et seq., regardless of whether the applicant demonstrates to LARA that he/she successfully completed the examination requirements in MCL 339.1806(8)(c). A license that has been suspended or revoked is not considered a license in good standing, and a licensee with pending disciplinary action is not considered to have a license in good standing. Any license that is subject to a limitation in another state is subject to the same limitation in this state.
9. Compliance with MCL 339.1806(1)(a) through (1)(c) and Administrative Rules 339.18921 through 339.18930 is temporarily suspended such that LARA may electronically issue a temporary mortuary science license to an applicant, regardless of whether the applicant demonstrates that he/she served as a resident trainee for 1 year under the personal supervision and instruction of the holder of a license for the practice of mortuary science, graduated from a 3-year course in mortuary science in an accredited school, college, or university, satisfactorily passed an examination, or met the requirements in Administrative Rules 339.18921 through 339.18930, if the applicant previously held a mortuary science license that expired within the past five years, and the applicant has no history of discipline or pending disciplinary action at the time of application.

10. Compliance with MCL 339.1808 and Administrative Rule 339.18923(4) is temporarily suspended such that LARA may renew a license to practice as a resident trainee, regardless of whether the resident trainee renewed his/her license 2 or more times.

11. Compliance with MCL 52.204 is temporarily suspended such that where a death occurs in an ambulance, emergency medical services personnel may, after making reasonable efforts to contact the county medical examiner's office consistent with MCL 52.203, transport the body to the closest hospital, the hospital that provided medical control, or, in cases where those hospitals lack morgue capacity to accommodate the body, to the nearest hospital that can accommodate the body. The receiving hospital must accept the body from emergency medical services personnel if the hospital morgue has capacity to do so.

This order is effective immediately and remains in effect until lifted.

Date: May 4, 2020

Robert Gordon

Robert Gordon, Director

Michigan Department of Health and Human Services