

Burial and Cremation Amendment Bill

(Divided from the Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill as reported from the Health Committee. The committee of the whole House has divided it into the following Bills:

- Accident Compensation Amendment Bill (No 2) comprising clauses 1 and 2, and Part 1
- this Bill comprising Part 2 and Schedule 1
- Children, Young Persons, and Their Families Amendment Bill (No 2) comprising Part 3
- Holidays Amendment Bill (No 2) comprising Part 4
- Land Transport Amendment Bill (No 3) comprising Part 5 and Schedule 2
- Medicines Amendment Bill comprising Part 5A
- Mental Health (Compulsory Assessment and Treatment) Amendment Bill comprising Part 6
- Misuse of Drugs Amendment Bill (No 2) comprising Part 7.

Hon Dr Jonathan Coleman

Burial and Cremation Amendment Bill

Government Bill

Contents

	Page
1 Title	2
2 Commencement	2
.	
5 Principal Act	2
6 Section 2 amended (Interpretation)	2
7 Section 46AA replaced (Doctor's certificate or coroner's authorisation required before body disposed of)	3
46AA Certificate of cause of death or coroner's authorisation required before body disposed of	3
8 Section 46A amended (Stillborn children)	3
9 Section 46B replaced (Doctor's certificate in relation to illness)	3
46B Certificate of cause of death in relation to illness	3
10 Section 46C replaced (Doctor's certificate in relation to accidents to elderly persons)	4
46C Certificate of cause of death in relation to accidents to persons aged 70 years or more	4
11 Section 46F amended (Transfer of charge of body)	5
12 Section 54AA amended (Offences concerning doctor's certificate or certificate relating to stillbirth)	5
13 Consequential amendments	5
.	
Schedule 1	6
Consequential amendments	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Burial and Cremation Amendment Act **2016**.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates. 5
- (2) Any provision that has not earlier been brought into force comes into force on the day that is 2 years after the date on which this Act receives the Royal assent.

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5 Principal Act

This **Act** amends the Burial and Cremation Act 1964 (the **principal Act**).

6 Section 2 amended (Interpretation)

- (1) In section 2(1), repeal the definitions of **doctor**, **doctor's certificate**, and **give a doctor's certificate**. 15
- (2) In section 2(1), insert in their appropriate alphabetical order:
- certificate of cause of death**, in relation to a death or a body, means a certificate referred to in **section 46B or 46C** relating to the cause of death or, as the case may require, the cause of death of the person whose body it is
- give a certificate of cause of death**, in relation to a person's death, means complete and sign a certificate of cause of death and give it to the person having charge of the person's body 20
- health practitioner** has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003
- medical practitioner** means a health practitioner who— 25
- (a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and
- (b) holds a current practising certificate 30
- nurse practitioner** means a health practitioner who—
- (a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and 35
- (b) holds a current practising certificate

7 Section 46AA replaced (Doctor’s certificate or coroner’s authorisation required before body disposed of)

Replace section 46AA with:

46AA Certificate of cause of death or coroner’s authorisation required before body disposed of

- (1) A body must not be buried, cremated, or otherwise disposed of unless the person in charge of the disposal has been given—
- (a) a certificate of cause of death; or
 - (b) a coroner’s authorisation.
- (2) After receiving under **subsection (1)** a certificate of cause of death or coroner’s authorisation, the person in charge of the disposal must send a copy of that certificate or authorisation to the department that administers this Act.
- (3) This section is subject to section 46A.

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8 Section 46A amended (Stillborn children)

In section 46A(1), replace “doctor” with “medical practitioner” in each place.

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9 Section 46B replaced (Doctor’s certificate in relation to illness)

Replace section 46B with:

46B Certificate of cause of death in relation to illness

- (1) This section applies if a person dies after an illness.
- (2) A medical practitioner or a nurse practitioner who attended the person during the illness must, immediately after learning of the person’s death, give a certificate of cause of death for the person’s death if the practitioner—
- (a) is satisfied that the person’s death was a natural consequence of the illness; and
 - (b) has taken reasonable steps to consult with any health practitioner known to have subsequently attended the person during the person’s illness.
- (3) Any other medical practitioner or nurse practitioner may give a certificate of cause of death for the person’s death if (and only if) the practitioner is satisfied that the person’s death was a natural consequence of the illness and—
- (a) a medical practitioner or nurse practitioner who attended the person during the person’s illness is unavailable; or
 - (b) less than 24 hours has passed since the death, and a medical practitioner or nurse practitioner who attended the person during the person’s illness is unlikely to be able to give a certificate of cause of death for the person’s death within 24 hours after the death; or
 - (c) at least 24 hours have passed since the person’s death, and a medical practitioner or nurse practitioner who attended the person during the per-

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- son's illness has not given a certificate of cause of death for the person's death.
- (4) **Subsection (3)(b) and (c)** does not apply if a medical practitioner or nurse practitioner who attended the person during the person's illness has refused to give a certificate of cause of death for the person's death because the practitioner was not satisfied, or was not yet satisfied, that the death was a natural consequence of the illness. 5
- (5) A medical practitioner or nurse practitioner must not give a certificate of cause of death under **subsection (3)** unless the practitioner— 10
- (a) has regard to the medical records relating to the person concerned of the health practitioner who last attended the person during the illness; and
 - (b) has regard to the circumstances of the person's death; and
 - (c) has examined the person's body.
- (6) A certificate of cause of death must not be given under **subsection (2) or (3)** if— 15
- (a) the death—
 - (i) must be reported to the New Zealand Police because section 13 (except subsection (1)(b)) of the Coroners Act 2006 applies; or
 - (ii) has been reported to a coroner under section 15(2) of that Act; and
 - (b) the coroner has decided to open an inquiry into the death. 20

10 Section 46C replaced (Doctor's certificate in relation to accidents to elderly persons)

Replace section 46C with:

- 46C Certificate of cause of death in relation to accidents to persons aged 70 years or more** 25
- (1) This section applies if a person of or over the age of 70 years dies (the **deceased**) and, in the opinion of a medical practitioner or nurse practitioner,—
- (a) the death was caused by injuries, or injuries contributed substantially to it; and
 - (b) the injuries were caused by an accident; and 30
 - (c) the injuries, the accident, or both arose principally by virtue of infirmities that were attributes of the deceased's age; and
 - (d) the accident was not suspicious or unusual; and
 - (e) the accident was not caused by an act or omission of any other person; and 35
 - (f) except to the extent that the death involved injury by accident, it was not violent, unnatural, or in some way a death in respect of which the Coroners Act 2006 requires an inquiry to be conducted.

- (2) A medical practitioner or nurse practitioner may give a certificate of cause of death for the deceased.
- (3) **Subsection (2)** applies even though the death may have been reported to the New Zealand Police under section 14 of the Coroners Act 2006.
- (4) However, if the medical practitioner or nurse practitioner is aware that the death has been reported to a coroner under section 15(2) of the Coroners Act 2006, the practitioner must not give a certificate of cause of death under **subsection (2)** without first obtaining the agreement of the designated coroner. 5
- 11 Section 46F amended (Transfer of charge of body)**
 In section 46F(1)(a), (3), and (4), replace “doctor’s certificate” with “certificate of cause of death”. 10
- 12 Section 54AA amended (Offences concerning doctor’s certificate or certificate relating to stillbirth)**
 In the heading to section 54AA, replace “**doctor’s certificate**” with “**certificate of cause of death**”. 15
- 13 Consequential amendments**
 The enactments specified in **Schedule 1** are consequentially amended in the manner indicated in that schedule.

Schedule 1

Consequential amendments

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Part 1

Amendments to Acts

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Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

In section 2, repeal the definition of **doctor's certificate**.

Coroners Act 2006 (2006 No 38)

Replace the heading above section 13(1)(b) with:

For which no certificate of cause of death given

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Replace section 13(1)(b) with:

- (b) every death in respect of which there has not been given a certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964):

Friendly Societies and Credit Unions Act 1982 (1982 No 118)

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In section 45(1)(ab), replace “doctor's certificate” with “certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964)”.

Social Workers Registration Act 2003 (2003 No 17)

In section 128(3), replace “doctor's certificate” with “certificate of cause of death (as defined in section 2(1) of the Burial and Cremation Act 1964)”.

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Part 2

Amendments to other enactments

Births, Deaths, Marriages, and Relationships Registration (Prescribed Information) Regulations 1995 (SR 1995/183)

In regulation 5B(c)(iv), replace “doctor's certificate” with “certificate of cause of death”.

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Replace regulation 7(1)(a)(xiv) with:

- (xiv) the name of the health practitioner who gave the certificate of cause of death and, if applicable, the date on which the person was last attended by that health practitioner:

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Cremation Regulations 1973 (SR 1973/154)

In regulation 7(1)(a), replace “doctor's certificate” with “certificate of cause of death”.

Cremation Regulations 1973 (SR 1973/154)—*continued*

In Schedule 1, form B, replace “doctor’s certificate” with “certificate of cause of death” in each place.

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Legislative history

11 October 2016

Divided from Health Practitioners (Replacement of Statutory References to Medical Practitioners) Bill (Bill 36–2) as Bill 36–3B