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1. DEATH FROM ACCIDENT—HOSPITAL—DUTY OF PHYSICIAN AND ANY OTHER PERSON WHO HAS KNOWLEDGE OF FACT TO IMMEDIATELY NOTIFY CORONER OF TIME, PLACE, MANNER AND CIRCUMSTANCES.
2. MATERNITY HOSPITAL, LYING-IN HOSPITAL OR OTHER HOSPITAL WHICH MAINTAINS MATERNITY WARD—DEATH OF MOTHER OR INFANT—PROCEDURE UNDER SECTIONS 6268, 6269 G.C.—PHYSICIAN—CORONER—DEAD BODY.
3. STILLBORN CHILD—CHILD ALIVE AT BIRTH—SECTIONS 6268, 6269 G.C. APPLY TO EACH.

SYLLABUS:

1. In case of the death of any person in a hospital, resulting from an accident, it is the duty of the physician in charge and of any other person having knowledge of the fact, immediately to notify the coroner of such death, and of the time, place, manner and circumstances thereof.

2. Immediately after the death of an inmate of a maternity hospital, lying-in hospital or other hospital which maintains a maternity ward, whether such inmate be a woman or an infant born therein or brought thereto, it is the duty of the operator of such hospital under Sections 6268 and 6269 General Code, immediately to give notice of such death to the board of health of the district in which such hospital is located; and on receipt of such notice, it is the duty of said board of health forthwith to call the coroner of the county, to hold an inquest on the body of such person unless a certificate under the hand of a legally qualified physician is exhibited to said board, certifying that he had personally attended and examined the person so dying and specifying the cause of death, and the board of health is satisfied that there is no ground for holding an inquest. In such case, if the coroner is called, the body of such deceased person shall not be removed without the consent of the coroner.

3. The provisions of Sections 6268 and 6269 General Code, apply to the birth of a stillborn child, as well as to one alive at birth.

Columbus, Ohio, March 26, 1947

Mrs. Mary F. Abel, Prosecuting Attorney, Logan County
Bellefontaine, Ohio

Dear Mrs. Abel:

I have before me your communication requesting my opinion, and reading as follows:

“Following is a quotation from a letter written by the County Coroner to the Directress of Mary Rutan Hospital:

‘The state law requires that any mother in the maternity ward who dies within the first 24 hours after delivery, is a coroner’s case and the body cannot be removed except on the authority of the coroner; or any child born in a maternity ward, who dies within the first 24 hours becomes a coroner’s case and cannot be removed except on the authority of the coroner; the body of any still-born child born in the hospital cannot be removed except on the authority of the coroner.’

I am unable to find any state law as outlined in this letter and I would like your opinion on the following questions:

1. In case of death resulting from an accident, death occurring in the hospital, is it necessary that the coroner be notified?
2. Is it required that in the case of the death of a mother who dies within 24 hours after delivery that the coroner be notified and that the body cannot be removed except upon his authority?
3. Is it required that in the case of a still-born child or a child born in a maternity ward who dies within the first 24 hours

that the coroner shall be notified and the body cannot be removed except on his authority?"

Sections 6259 to 6277, inclusive, of the General Code, contain certain regulations relative to maternity hospitals or homes and lying-in hospitals. Section 6259 reads in part as follows:

"The commissioner of health may grant licenses to maintain maternity hospitals or homes, lying-in hospitals, or places where women are received and cared for during parturition. * * * "

It will be noted that the scope of this section is not confined strictly to maternity hospitals or lying-in hospitals, but refers also to "places where women are received and cared for during parturition". This language would appear to include general hospitals, at least, those which maintain a department or ward for handling maternity cases. I am informed that such is the interpretation given this provision by the state department of health, which has for a long time required licenses for general hospitals which do maintain such ward or department. The right of the state department of health to maintain certain supervision over all hospitals is set forth in Section 1236-6, General Code, which provides as follows:

"The commissioner of health shall have power to define and classify hospitals and dispensaries. Within thirty days after the taking effect of this act (General Code, Sections 1236-6, 1352, 6259 and 6262), and annually thereafter, every hospital and dispensary, public or private, shall register with, and report to, the state department of health, on forms furnished by the commissioner of health, such information as he may prescribe."

Accordingly, referring again to the chapter above mentioned relative to maternity hospitals, I find in Section 6268, General Code, the following provision:

"A person licensed as aforesaid, immediately after the death of an inmate of such boarding house or lying-in hospital, whether a woman or an infant born therein or brought thereto, shall cause notice thereof to be given to the board of health of the city, village or township in which such house or hospital is located."

Section 6269, General Code, reads as follows:

"Such board of health shall forthwith call the coroner of the county in which said person died to hold an inquest on the body of the person, unless a certificate under the hand of a legally

qualified physician is exhibited to said board by the licensee that such physician had personally attended and examined the person so dying, and specifying the cause of death, and the board of health is satisfied that there is no ground for holding an inquest.”

It follows, therefore, that whenever a woman inmate of such hospital or an infant born therein or brought thereto, dies, it is the duty of the licensee immediately to cause notice of such death to be given to the board of health of the health district in which such hospital is located. Thereupon, unless a certificate is presented to the board of health, signed by a legally qualified physician, certifying that he has personally attended and examined the person so dying, and specifying the cause of death, and the board of health is satisfied that there is no ground for holding an inquest, it becomes the duty of such board forthwith to call the coroner of the county in which such person died, to hold an inquest on the body of the deceased.

The only references to a stillborn child which I find in the statutes are contained in Sections 1261-58 and 1261-59, General Code. Section 1261-58 in so far as pertinent, reads as follows:

“A stillborn child, or one dead at birth, shall be registered on a standard certificate of stillbirth. The certificate of stillbirth shall contain such items and information as may be required by the United States bureau of the census and such additional items and information as the public health council by regulation may prescribe. A stillbirth which occurs in Ohio shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of until a burial permit shall have been issued by the local registrar of the registration district in which the stillbirth occurs, or the body is found. * * * ”

Section 1261-59, General Code, relates to the issuance of a burial permit, and provides in part as follows:

“The body of a person whose death occurs in Ohio shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, until a burial permit shall have been issued by the local registrar of the registration district in which the death occurs. No such burial permit shall be issued by the local registrar until a satisfactory certificate of death or stillbirth has been filed with him.”

This section contains a further provisions, as follows:

“In cases where death has resulted from violence or external cause the body shall not be removed without the consent of the coroner.”

This latter provision it will be noted relates to any violent death or death from external causes. It fits in with the provisions of the law found in the statutes relating to the office of coroner, particularly Sections 2855-5 and 2855-12, General Code, which read as follows:

“Section 2855-5. When any person shall die as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner, the physician called in attendance shall immediately notify the office of the coroner of the known facts concerning the time, place, manner and circumstances of such death, and any other information, which may be required pursuant to this act. In such cases, if request for cremation is made, the funeral director called in attendance, shall notify the coroner immediately.”

“Section 2855-12. It shall be the duty of any person who discovers the body or acquires the first knowledge of the death of any person who shall have died as a result of criminal or other violent means, or by casualty, or by suicide, or suddenly when in apparent health, or in any suspicious or unusual manner, to immediately notify the office of the coroner of the known facts concerning the time, place, manner and circumstances of such death, and any other information, which may be required, pursuant to this act. In such cases, if request for cremation is made, the funeral director called in attendance, shall notify the coroner immediately. Any person who shall willfully refuse to report such a death, or who without an order from the coroner, shall willfully touch, remove, disturb the body of any such person, or the clothing or any article upon or near such body, shall be guilty of a misdemeanor and if convicted shall be fined not less than one hundred dollars, nor more than five hundred dollars.”

It appears to me that the provisions of the sections above quoted relative to the birth and death of a child in a maternity hospital apply to a child born dead as well as to one alive at birth. The law recognizes the child is “born” in either case. And its death shortly before birth may just as well give rise to suspicion of a crime having been committed as if its death took place shortly after its birth. Accordingly, the procedure set out in those statutes must be followed in case of a stillbirth occurring in such hospital.

The provisions of Sections 2855-5 and 2855-12 which I have quoted, appear to afford a direct and sufficient answer to your first question. These statutes speak of death resulting from "casualty" which, according to Webster is synonymous with "accident".

Accordingly, and in specific answer to your several questions it is my opinion:

1. In case of the death of any person in a hospital, resulting from an accident, it is the duty of the physician in charge and of any other person having knowledge of the fact immediately to notify the coroner of such death, and of the time, place, manner and circumstances thereof.

2. Immediately after the death of an inmate of a maternity hospital, lying-in hospital or other hospital which maintains a maternity ward, whether such inmate be a woman or an infant born therein or brought thereto, it is the duty of the operator of such hospital under Sections 6268 and 6269, General Code, immediately to give notice of such death to the board of health of the district in which such hospital is located; and on receipt of such notice it is the duty of said board of health forthwith to call the coroner of the county to hold an inquest on the body of such person unless a certificate under the hand of a legally qualified physician is exhibited to said board, certifying that he had personally attended and examined the person so dying and specifying the cause of death, and the board of health is satisfied that there is no ground for holding an inquest. In such case, if the coroner is called, the body of such deceased person shall not be removed without the consent of the coroner.

3. The provisions of Sections 6268 and 6269, General Code, apply to the birth of a stillborn child, as well as to one alive at birth.

Respectfully,

HUGH S. JENKINS,
Attorney General.