

REGULATIONS OF THE EL PASO COUNTY BOARD OF HEALTH

EL PASO COUNTY, COLORADO

Chapter 7

FETAL DEATH REVIEW REGULATIONS

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CHAPTER 7

FETAL DEATH REVIEW REGULATIONS

SECTION 7.1: AUTHORITY

- A. Pursuant to the authority of the El Paso County Board of Health contained in Section 25-1-508 C.R.S., to initiate and carry out health programs, not inconsistent with the law, that it deems necessary or desirable for the protection of the public health and the control of disease; to collect, compile, and tabulate reports and information concerning deaths, and to require any person having information with regard to the same to make such reports and submit such information; and, to make any necessary sanitary and health investigations and inspections on its own, or in cooperation with the Colorado Department of Public Health and Environment, the El Paso County Department of Health and Environment is authorized to implement these regulations in El Paso County for the prevention of fetal deaths.
- B. Pursuant to Title 45, Code of Federal Regulations, Section 164.512(a), these regulations constitute a law requiring disclosure of protected health information by covered entities for the limited public health purposes provided herein.
- C. The El Paso County Board of Health and El Paso County Department of Health and Environment constitute a public health authority pursuant to Title 45, Code of Federal Regulations, Section 164.512(b) which authorizes covered entities to disclose protected health information to public health authorities for public health activities and purposes; and, authorizes public health authorities to collect or receive protected health information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions.

SECTION 7.2: DEFINITIONS

As used herein, unless the context dictates otherwise, the following definitions shall apply:

- A. BOARD OF HEALTH: The El Paso County Board of Health.
- B. FETAL DEATH: Death of a human fetus from 20 weeks gestation to birth.
- C. FETAL DEATH REVIEW TEAM or TEAM: The team of participants established or formed from time to time by the Health Department to review fetal deaths pursuant to these regulations.
- D. FETUS: An unborn human from 20 weeks gestation to birth.
- E. HEALTH DEPARTMENT: The El Paso County Department of Health and Environment, its employees, contractors, and others acting at the direction or control of Health Department employees.

SECTION 7.3: FETAL DEATH REVIEW TEAM

- A. The Health Department is authorized establish a Fetal Death Review Team for the purpose of reviewing, evaluating, and making public health recommendations to appropriate agencies and persons as to methods for preventing fetal deaths.
- B. The Team shall be chaired by the Medical Director of the Health Department, or her designee.
- C. The Team shall be comprised of representatives from agencies and individuals in El Paso County deemed appropriate by the Health Department to carry out the purposes of the Team. Composition of the Team may vary from time to time as deemed appropriate by the Health Department.
- D. The Team shall establish appropriate rules for administration and functioning of the Team.

SECTION 7.4: REVIEW AUTHORITY

- A. The Team shall have authority to interview all persons residing in El Paso County, including family members, and, access all records and obtain copies of all records possessed by any person relating to a fetal death in El Paso County, including records pertaining to the mother of the fetus, for the purpose of reviewing, evaluating, and making public health recommendations on the prevention of fetal deaths.
- B. The Team shall act on behalf of the Board of Health and Health Department as a public health authority pursuant to Title 45, Code of Federal Regulations, Section 164.512(b) which authorizes covered entities to disclose protected health information to public health authorities for public health activities and purposes; and, authorizes public health authorities to collect or receive protected health information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions.
- C. The Team is authorized to access and obtain copies of all medical records, protected health information, standard medical record abstraction forms, investigation records, autopsy results, and all other records pertinent to the fetal death, and the mother of the fetus, from any hospital, physician, nurse, Department of Human Services, law enforcement agency, coroner's office, vital statistic agency, and every other agency and individual with information or records relating to the fetal death.
- D. The Team is also authorized to access and obtain copies of birth certificates, death certificates and any other vital statistic records from the State Registrar, or local custodian of vital statistics, in accordance with the Memorandum of Agreement entered into between the Board of Health and the State Registrar for the purpose of fetal death reviews. The Team shall strictly adhere to all requirements in said Memorandum of Agreement.
- E. Covered entities pursuant to the Health Insurance Portability and Accountability Act of 1996, and specifically Title 45, Code of Federal Regulations, Section 164.512(a), are required to disclose protected health information which the Team is authorized to access as provided herein.
- F. The Team shall conduct interviews by telephone, electronic media, or in person only upon authority of the Medical Director of the Health Department.
- G. The Team shall only request copies of records through a written request signed by the Medical Director of the Health Department.

SECTION 7.5: CONFIDENTIALITY

- A. The Team shall establish procedures to ensure, to the extent legally possible, that information and records, including interview notes, notes made by Team members, and meeting minutes, are maintained in a confidential manner.
- B. Records and information pertaining to a particular fetal death shall not be communicated to or among Team members by electronic media.
- C. Copies of all records and other written communications, including handwritten notes, distributed or used during Team meetings shall be collected by the chairman at the conclusion of each meeting, unless such records and written communications are necessary for Team members to retain for purposes deemed necessary by the chairman.
- D. The Health Department shall develop procedures for the destruction of records pertaining to fetal death prevention reviews, as appropriate.
- E. All records and other written communications used by Team members for the purpose of conducting a fetal death review shall be considered as medical, mental health, sociological, or otherwise privileged information that are not subject to access or copying pursuant to the Colorado Open Records Act, Section 24-72-201, *et seq.*, C.R.S., or subject to subpoena, except as provided below for public health recommendations.
- F. The Board of Health has determined that the mother of the fetus, family members, and all others involved with the conception of the fetus and its death have a reasonable expectation of privacy relating to all records and other written communications, including handwritten notes and written summaries of oral communications, concerning the fetal death. Therefore, all records and written communications are privileged information that are not subject to access or copying pursuant to the Colorado Open Records Act, Section 24-72-201, *et seq.*, C.R.S., or subject to subpoena, except as provided below for public health recommendations.

SECTION 7.6: CASE SUMMARIES AND PUBLIC HEALTH RECOMMENDATIONS

- A. Following review and evaluation of a fetal death, the Health Department may prepare a case summary and public health recommendation to prevent future fetal deaths.
- B. Case summaries shall be confidential as provided in Section 7.5. Case summaries shall only be accessible by Health Department staff or persons acting under the direct supervision of Health Department staff.
- C. Public health recommendations shall be disseminated as deemed appropriate by the Health Department to help prevent fetal deaths in El Paso County. Public health recommendations are subject to public access and copying as public records.

SECTION 7.7: RELATIONSHIP TO CHILD FATALITY PREVENTION REVIEW

- A. The Health Department is authorized to carry out the duties and responsibilities as a member and/or Chair of the Colorado Fourth Judicial District Child Fatality Prevention Review Team in El Paso County and Teller County as designated by said Team pursuant to the Child Fatality Prevention Act, Part 4 of Article 20.5 of Title 25, C.R.S.
- B. To the extent practicable, the Health Department shall coordinate activities and procedures of the Fetal Death Review Team and the Colorado Fourth Judicial District Child Fatality Prevention Review Team.