



**Joint Statement of the Arizona Board of Funeral Directors and Embalmers and the Arizona
Department of Health Services**

September 27, 2017

The Arizona Board of Funeral Directors and Embalmers (Board) and the Arizona Department of Health Services (ADHS) are supportive of families experiencing the loss of an unborn child. This can occur very early in a pregnancy but in no way does it lessen the grief families endure during that time.

Accordingly, the Board and ADHS want to ensure that the dignity and wishes of the families are honored by allowing families to lay their child to rest according to their wishes without needless government intervention.

As ADHS incorporates its [new data system for Vital Records](#) some questions have arisen about when a disposition-transmit permit is necessary. As such, we are providing the following guidance and will continue to update information as questions arise.

The primary and sole authority over all vital records has been placed with ADHS, including the obligation to “[o]rganize, operate and maintain the only system of vital records in this state;” and to “[d]irect and supervise the creation and registration of vital records, electronically and physically, and be the custodian of vital records.” A.R.S. § 36-302(B)(3) and (4). ADHS is thus charged to create a system for the registration of all deaths resulting in a registerable event. This includes fetal death, A.R.S. § 36-329 (after a gestational period of twenty weeks or weighing more than 350 grams); and stillborn death, A.R.S. § 36-330 (after twenty completed weeks of gestation.) For these deaths, a funeral establishment or responsible person (as defined in A.R.S. § 36-831) is required to obtain a disposition-transit permit before burial or cremation. As an administrative agency is obliged to do, ADHS interprets its own statutes and rules and has determined that, for a death that does not qualify as a registerable event, before the completion of twenty weeks gestation or less than 350 grams, a disposition-transit permit is not required. Accordingly, the requirement under A.R.S. § 36-331(A) to receive a disposition-transit permit would apply only to those registerable events for which a disposition-transit permit would be created and issued by ADHS.

The statutes and rules governing the licensure and regulation of funeral directors and crematories, Title 32, Ch. 12 and the accompanying rules in A.A.C. R4-12-101, *et seq.*, only refer to the disposition-transit permits in relation to compliance with A.R.S. § 36-326. *See* R4-12-101(10) and -631(A)(3) (cremationist or funeral establishment is required to keep a copy of “the completed disposition-transit permit that meets the requirements of A.R.S. 36-326 and A.A.C. R9-19-302.”) Therefore, given ADHS’ interpretation regarding disposition-transit permits, a funeral establishment or responsible person need not obtain a permit for the final disposition of an unabortted fetus of less than twenty weeks completed gestation or weighing less than 350 grams in order to meet the requirements of A.R.S. § 36-326.