



# Functions of the Forensic Doctor as Heirs of Civil Registry Doctors

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## Abstract

The work shows the changes that have arisen in the functions attributed to the Doctors of the Civil Registry since the disappearance of this institution in 1992 until today. The problems currently generated are presented to the Forensic Doctor who has assumed these functions.

**Keywords:** Civil Registry; Forensic Medicine; Civil Registry Doctor; Deaths; Legislation

## Conceptual Paper

In the Civil Registry of those cities that had more than 50,000 inhabitants, there were doctors who performed their duties in them; they belonged to the Corps of Doctors of the Civil Registry. They were civil servants who accessed through a system of oppositions but unlike other civil servants they did not charge directly from the state but they charged for tariffs, for each act carried out, each act had a stipulated price. Tariffs were regulated in a final annex to the 1958 Civil Registry Regulations [1,2]; they were updated by Decree 1778/1971 [3,4].

The Civil Registry Medical Corps referred to in articles 44 and 85 of the Civil Registry Law (LRC), was organically regulated in the Decree of November 14, 1958, which approves the Regulation of the Civil Registry Law Civil registration. Title VIII, of the Doctors of the Registry, Articles 378 to 408 and Thirteenth Transitory Provisions, Third Additional and Final Provisions.

The figure of the Civil Registry doctor disappeared as such in 1992, becoming part of the Corps of Forensic Doctors by the aforementioned Organic Law 7/1992 of November 20; One of the reasons that was adduced for his disappearance was the fact that the acts of the Civil Registry, when changing the law, became free, so it did not make sense

for an official who belonged to said Registry to charge, since as we have mentioned above, his salary came from the fees that were stipulated by act. Said Law stated that the functions attributed by the Civil Registry Law to Civil Registry Doctors shall be understood to refer to the Corps of Forensic Doctors, who will carry out these functions together with the other functions of this Corps. Exceptionally, there could be Forensic Doctors assigned exclusively to Civil Registry functions. It is as of February 9, 1993, by Royal Decree 181, when they are integrated into the corps of Forensic doctors and are paid by the general state budgets, abolishing the tariff regime [5].

The missions of this Body were scattered throughout the articles of the Civil Registry Regulations, which led to the fact that despite their importance, they were little known even to jurists. For this reason, an Instruction was carried out [6] in which the specific functions of the Civil Registry Doctors were collected, which could be grouped into three sections [7]:

- 1. Verification of births:** In accordance with articles 44 of the Civil Registry Law and 168 of its Regulations, the intervention of the Civil Registry Doctor is limited to cases in which the birth declaration is not accompanied by the necessary optional part or when this is contradictory with the information of the declarant.
- 2. Intervention in files:** We must distinguish here in turn three possible cases:

- File of rectification of error regarding sex (article 93, 2nd LRC). The Doctor's opinion is always mandatory, in accordance with article 294, 4th of the Regulation.
- File prior to the celebration of the marriage in civil form (article 56 CC). The opinion is necessary if the instructor considers that one of the contracting parties is affected by deficiencies or mental anomalies (article 245, RCC).
- File for late birth registration. The opinion of the Civil Registry Doctor must be required whenever there is doubt about the sex or age of the child (article 313, RCC).

### 3. Verification of Deaths: Organic Law 7/1992, Third Article. On Modification of the Civil Registry Law. Amends Paragraphs 2 and 3 of Article 85 of the Civil Registry Law of June 8, 1957.

Paragraphs 2 and 3 of article 85 of the Civil Registry Law of June 8, 1957 will be replaced by the following:

In cases where a medical certificate is missing or is incomplete or contradictory, or the person in charge deems it necessary, the forensic doctor assigned to the Civil Registry, or his substitute, will issue an opinion on the cause of death, including by examining the body itself same.

In another legislative order, the Law leaves no doubt when stating that the death certificate must be completed and signed by a doctor, and on the other hand, the Code of Medical Deontology (Medical Ethics Guide) in force (July 2011), makes explicit [8]:

### Chapter III Relationships of the Doctor with their Patients

Article 20 Point 1- When appropriate or the patient requests it, it is the duty of the doctor to provide a report or a certificate on the assistance provided or on the data of the clinical history. Its content will be authentic and truthful and will be delivered only to the patient, the person authorized by him or his legal representative.

### Chapter VII End of Life Medical Care

Article 36 Point 6- Although the doctor who has had the greatest care burden on the patient is the one who has the greatest ethical responsibility to complete the death certificate in all its sections, it is not deontologically acceptable to avoid the commitment to certify it when it occurs if it has been witnessed, the patient is known or the medical history is available.

But at the time of signing it, the doctor very often refuses to do so for different reasons:

- I don't know the patient, and the medical history?;

- He argues that he does not know the cause of death;
- What if you have been poisoned? ;
- That the "forensic team" certify, etc...

However, at times, it is curious how that same attending physician who refuses to certify a natural death many times produced in front of witnesses, with a medical history, is able to sign a death certificate without shaking his hand in cases of violent death, such as a traffic accident, an overdose of drugs... "Because he knows that he has died."

The reality of the current moment is that many natural deaths are not certified and the Court of Duty is notified (either by themselves in the least part of cases and generally through the emergency services and security forces) with a double cost, on the one hand, increasing the workload of both the State Security Forces and Corps, as well as the Courts and especially the forensic doctor in the IMLCCFF; and on the other hand, causing greater anguish in the family of the deceased, who do not understand the fact that the police, the forensic doctor, are intervening; in short, increasing the unnecessary use of human and economic resources that this deployment entails for society.

Recently, and in the face of the pandemic situation, this lack of professionalism or ethics of "some professionals" has been reinforced, either for fear of the consequences that the signing of the certificate may have (civil, criminal, administrative...), fear of the handling of the corpse; It is as if for some professionals the fact of the death of the patient was not theirs when in fact it should be the last professional act after examining the corpse, certifying his death when it is due to natural causes.

For this reason, the WTO before the declaration of the state of alarm for the management of the health crisis by Covid-19, and following the guidelines of the Ministry of Health and the Ministry of Justice, in relation to the Death Certificates of deaths due to causes natural and especially in cases with Covid-19 or suspected Covid-19 infection, and in accordance with the definitions proposed by the WHO, an informative note has been published, in which it reports, among other points [9]:

- **Point 2-** The intervention of the Forensic Physician will be limited, therefore, to cases of violent death or in which there is a clear suspicion of criminality.
- **Point 3-** In the rest of the cases, the certification of death corresponds to the doctors of the Public Health Services.

This note ends by stating that the content of this note complies with the principles of Medical Ethics and is in accordance with the provisions of the current Code of Medical Deontology. It does not seem possible that a solution to this problem can be given under normal conditions when

it has not been achieved or in an alarm situation.

### References

1. (1957) Civil Registry Law.
2. (1958) Decree of approving the Regulations for the application of the Civil Registry Law.
3. (1971) Which modifies the table of rights to be received in cash by the Civil Registry doctors.
4. Law 25/1986 of December 26 on the abolition of court fees.
5. Organic Law 7/1992 of November 20, which establishes the retirement age of Judges and Magistrates and the incorporation of the Civil Registry doctors to the Corps of Forensic Doctors.
6. Instruction of October 19, 1987 on the functions of the Civil Registry Physicians.
7. Royal Decree 181/1993, on the integration of doctors from the Civil Registry and those from the extinct Scale of Doctors of the Work for the Protection of Minors, belonging to the Scale of Autonomous Organizations of the Ministry of Justice, in the Corps of Forensic Doctors.
8. (2011) Code of Medical Ethics, General Council of Official Medical Associations.
9. Informative note from the Collegiate Medical Organization in the face of the pandemic situation caused by Covid-19.

