

Memorandum 87-99

Subject: Study L-1040 - Public Administrators (Proposed Change in Recommendation)

Existing Probate Code Section 1145 provides:

Whenever a stranger, or person without known heirs within the State of California, dies intestate in the house or premises of another, the possessor of such premises, or anyone knowing the facts, must give immediate notice thereof to the public administrator of the county; and in default of so doing, he is liable for any damage that may be sustained thereby, to be recovered by the public administrator or any party interested.

The Commission has omitted this provision from its Public Administrator recommendation on the ground that the provision will be impossible to comply with in many cases and imposes an undue burden on unsuspecting citizens. The Commission was also informed that there is not a practical problem here; hospitals, hotels, and other facilities that end up with corpses on their hands will, as a matter of course, inform the coroner or public administrator, whichever is appropriate.

We have now received a letter from the Stanislaus County Public Administrator (Exhibit 1), who states that the existing statute enables the public administrator to compel providers of care to notify the public administrator. "If PC1145 is repealed, we will no longer have that ability, and will therefor not be able to perform properly the functions of a public administrator."

The Stanislaus County Public Administrator understands the Commission's concern about improperly imposing a duty on private citizens, and would limit the statute to hospitals, convalescent hospitals, and board and care facilities. If the Commission approves this approach, we would add a new provision to the recommendation along the following lines.

§ 7600.5. Notice of death of patient

7600.5. If a person dies in a hospital, convalescent hospital, or board and care facility without known next of kin, the person in charge of the hospital or facility shall give immediate notice of that fact to the public

administrator of the county in which the hospital or facility is located. If the notice required by this section is not given, the hospital or facility is liable for (1) any cost of interment incurred by the estate or the county as a result of the failure and (2) any loss to the estate or beneficiaries caused by loss, injury, waste, or misappropriation of property of the decedent as a result of the failure.

Comment. Section 7600.5 supersedes former Section 1145.

Such a provision would also tie in neatly with a conforming change required by enactment of a new Health and Safety Code provision at the 1987 legislative session:

Health & Safety Code § 1289.4 (amended). Long-term health care facilities

SEC. . Section 1289.4 of the Health and Safety Code is amended to read:

1289.4. A theft and loss program shall be implemented within 90 days after January 1, 1988. The program shall include all of the following:

...

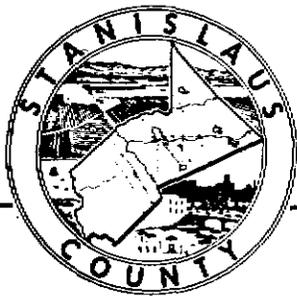
(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate ~~written~~ notice to the public administrator of the county upon the death of a resident without ~~a representative or known heirs as specified by Section 1145~~ known next of kin as provided in Section 7600.5 of the California Probate Code.

...

Comment. Section 1289.4 is amended to correct a section reference.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary



**SHERIFF - CORONER
& PUBLIC ADMINISTRATOR**

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October 27, 1987

JIM TREVENA
SHERIFF-CORONER
& PUBLIC ADMIN.

California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

CA LAW REV. COMM'N

OCT 28 1987

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Attn: Nathaniel Sterling
Assistant Executive Secretary

Re: Probate Code section 1145

Dear Mr. Sterling:

During the September 1987 Public Administrator/Public Guardian Conference in Santa Rosa the public administrators present expressed concern over the proposed repeal of Probate Code section 1145. You stated that if we did not want it repealed that we could submit proposed amendments to it to the Law Revision Commission for their consideration prior to October 31, 1987.

The public administrator is charged with administering the estates of persons who die intestate, with no known heirs, and also with taking charge of estates that are in danger of being lost, uncared for or wasted. Under current probate code provisions, the public administrator is able to use PC1145 to compel providers of care to notify the public administrator of deaths that fall under these provisions. If PC1145 is repealed, we will no longer have that ability, and will therefor not be able to perform properly the functions of a public administrator.

I am enclosing a proposed draft of PC1145 that will eliminate the reporting requirements for private citizens, but will require hospitals, convalescent hospitals, and board and care facilities to provide proper notification to the public administrator.

Thank you for the opportunity to submit this proposed amendment to Probate Code section 1145.

Sincerely,

JIM TREVENA, Sheriff - Coroner
& Public Administrator

By: Dianna L. Dirks, Supervising
Public Administrator

DLD:mcw
Enclosure

PROPOSED PROBATE CODE SECTION 1145

IMMEDIATE NOTICE DUE PUBLIC ADMINISTRATOR OF DEATH OF PATIENT
AND LIABILITY THEREFORE

When a person without known heirs dies intestate in a hospital, convalescent hospital, or board and care facility, the person in charge of such facility, or any employee of such facility knowing such facts, must give immediate notice of those facts to the Public Administrator of the County prior to notifying any mortuary. If the required notice to the Public Administrator is not given, the owner of the facility shall be liable for (1) any cost of internment incurred to the estate or County because of the failure to give such notice, and (2) any loss to the estate or heirs of the decedent because the lack of such notice caused the property of the decedent to be wasted, uncared for, or lost.