



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

October 3, 1977

Honorable Robert Gradel
Lampasas County Attorney
P. O. Box 95
Lampasas, Texas 76550

Opinion No. H-1064

Re: Whether a county clerk
can replace an erroneous
original death certificate
with a corrected certificate.

Dear Mr. Gradel:

You have asked for an opinion on the following question:

Whether the County Clerk can remove a
death certificate which has an erroneous
cause of death, and replace it with a new
original, with the correct cause of death?

Rule 40a of article 4477, V.T.C.S., requires the filing of
a certificate for each death with the local registrar of the
district in which the death occurred. Rule 51a, article 4477,
provides for the amendment of death certificates:

After its acceptance for registration
by the local registrar, no record of
any birth, death, or stillbirth shall
be altered or changed; provided, however,
that if any such record is incomplete, or
satisfactory evidence can be submitted
proving the record to be in error in any
respect, an amending certificate may be
filed for the purpose of completing or
correcting such record, which amendment
shall be in a form prescribed by the State
Department of Health and shall, if accepted
for filing, be attached to and become a
part of the legal record of such birth,
death, or stillbirth.

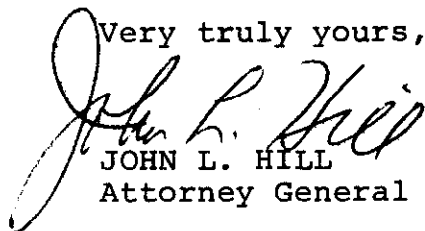
This provision expressly forbids alteration of a death certi-
ficate after its acceptance by the local registrar. Anyone
who wilfully alters a death certificate other than as provided
by rule 51a of article 4477 is guilty of a misdemeanor, and
upon conviction is subject to punishment. V.T.C.S. art. 4477c.

Attorney General Opinion O-4854 (1942), discussing this portion of rule 51a, determined that an erroneous birth certificate should not be removed or destroyed, but corrected by attaching an amendment. We believe the removal of the erroneous certificate would be an alteration of a death record forbidden by rule 51a. Cf. Wichita Farm Lighting Co. v. Moore, 46 S.W.2d 383 (Tex. Civ. App. -- Amarillo 1932, no writ) (detachment of written agreement attached to note constituted material alteration of note). We understand that the death certificate in this case has already been corrected in accordance with rule 51a by the attachment of an amending certificate, which is now part of the legal record of the death.

S U M M A R Y

The County Clerk may not remove a death certificate which has an erroneous cause of death and replace it with a new original showing the correct cause of death. The certificate may be corrected in accordance with rule 51a of article 4477, V.T.C.S., by the attachment of an amending certificate.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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