

RPAC Works with Congress, NAPHSIS, and Federal Agencies To Keep Records Accessible T-244

The RPAC session at 4:00 p.m. will be a panel discussion featuring Shawna Webster, Executive Director, NAPHSIS; Jan Alpert, FNGS, Chair, RPAC; Jan Meisels Allen, IAJGS; and Fred Moss, JD, LLM, FGS.

What is RPAC?

The Records Preservation and Access Committee (RPAC) is sponsored by the Federation of Genealogical Societies (FGS), the International Association of Jewish Genealogical Societies (IAJGS), and the National Genealogical Society (NGS) and supported by the Association of Professional Genealogists (APG), the Board for Certification of Genealogists (BCG), the American Society of Genealogists (ASG), and the International Commission for the Accreditation of Professional Genealogists (ICAPGen). Members of RPAC meet monthly to advise the genealogical community on ensuring proper access to vital records and on supporting strong records preservation policies and practices. For more information about RPAC see <https://fgs.org/community/rpac>.

What is NAPHSIS?¹

“NAPHSIS, the **National Association for Public Health Statistics and Information Systems**, is the professional association of vital records and public health statistics offices in the United States. Formed in 1933, NAPHSIS brings together members from all 50 states, five territories, New York City, and the District of Columbia. Together, NAPHSIS members:

- **Protect Identity:** Vital records offices produce birth and death certificates to be used as legal documents. Many federal and state agencies rely on birth certificates for proof of age and citizenship, identification for employment purposes, to issue benefits or other documents (e.g. driver’s licenses, Social Security cards, and Passports) and to assist in determining eligibility for public programs or benefits. Families rely on death certificates to obtain insurance benefits, access accounts of deceased loved-ones, and other activities necessary during a very difficult time. NAPHSIS members help individuals and agencies determine the validity of their documents and protect citizens from identity fraud.
- **Protect Public Health:** Vital statistics capture critical health and demographic data. The information our members collect and the statistics they produce are the foundation for program planning, surveillance, and research in areas such as maternal and child health, pandemic disease control, health disparities, and emerging health concerns....”

NAPHSIS’ EVVE Fact of Death Database

NAPHSIS has developed EVVE, a query system to verify and certify vital records. Customers who currently access the database are state and federal government agencies. Last year NAPHSIS debuted EVVE’s new product, another query-based system to determine Fact of Death (FOD). This product will be available to commercial customers including financial services and health care companies, but access is

¹ See page four of the NAPHSIS 2017 Annual Report which can be read in its entirety at https://docs.wixstatic.com/ugd/b08966_63910f5cf5d94ab9a8f28b7c39cb7db8.pdf.

determined by each state's individual statutes. RPAC has begun discussions with NAPHSIS to allow genealogists to be customers of EVVE FOD.²

The EVVE Fact of Death system allows you to submit single queries or large volume requests, and have each record checked against all participating states' death record databases simultaneously. If matches are found, the state of death and the date of death are sent back to you.

WHY EVVE FACT OF DEATH?



If you've ever looked for a death data solution prior to EVVE Fact of Death, you probably realized that a good solution didn't exist.



The federal government's Death Master File stopped including state protected death records in November 2011, reducing the number of death records it contains by over 4 million records, with 1 million fewer records added annually.



State vital records offices, on the other hand, do have current, accurate, and complete records of deaths that occur in their state and are therefore the only source for complete and accurate death information.

HOW EVVE FACT OF DEATH WORKS FOR YOU:

- Provides access to real-time death data
- Streamlines business process
- Supports the fight against fraud
- Improves customer service
- Delivers significant savings in cost and time

DATA CONFIDENTIALITY

Your data is safe with us. We use strong encryption technology and we adhere to all major Information Security standards. Our EVVE clients include:

- Department of Homeland Security
- Department of State
- Federal Bureau of Investigation Offices
- Social Security Administration
- Multiple Department of Motor Vehicle locations
- Transportation Security Administration

EVVE Fact of Death is run by NAPHSIS, the national nonprofit organization representing the state vital records and public health statistics offices in the United States.

*State means all 50 states of the U.S., the five territories, Washington D.C. and New York City.

For more information about EVVE and the FOD product, contact NAPHSIS Product Manager Anthony Stout at astout@naphsis.org 301.563.6005

What You Need to Know About the Proposed 2011 Model Vital Statistics Act.

The 2011 Model State Vital Statistics Act if passed in your state will increase the embargo period for access to Vital Records, as well as indexes, to 125 years for birth records, 75 years for death records, and 100 years for marriage and divorce records. You can read the 2011 Model Law at <https://naphsis.org>.

New vital records legislation was introduced earlier this year in Washington State, Senate Bill E5332, <http://lawfilesexternal.wa.gov/biennium/2019-20/Pdf/Bills/Senate%20Passed%20Legislature/5332-S.PL.pdf>.

The bill was signed into law on April 26, Chapter 148 of the laws of 2019. The law becomes effective January 1, 2021, except for the rulemaking provisions which become effective July 28, 2019. The law includes an embargo on certified copies of birth records for 100 years and death records for 25 years. With the compromise of 25 years for death records, the law includes an expanded list of relatives and an authorized representative who can be other relatives or genealogists, who may access the records immediately. Informational copies, without cause of death will be available without embargo dates. Indices are to be transferred to the state archives. The Washington State Department of Health reached out to the genealogical community beginning fall 2018 and is an example of the genealogical community working with regulators to achieve the best possible outcome. The genealogical community also worked with the author to further refine the final language.

² EVVE FOD can be found on page 10 of NAPHSIS Annual Report which can be read in its entirety at https://docs.wixstatic.com/ugd/b08966_63910f5cf5d94ab9a8f28b7c39cb7db8.pdf.

Over the last few years, variations of the proposed 2011 Model Act have passed in several states.

- **Oklahoma** was the first state to pass the Act in 2011 and because the bill was poorly written, only the deceased could obtain a copy of his/her death certificate. In September 2016, HB 2703 was enacted which made death records available to the public after 50 years and a public index of birth records after 20 years and death records after 5 years. The Oklahoma State Department of Health and Oklahoma Genealogical Society worked together to create a public vital records index in 2017 which is available online at <https://ok2explore.health.ok.gov/>.
- Similar efforts by genealogists in **Virginia** were able to prevent any increase in the embargo periods and instead the new law SB660 passed in 2012 made death records available to the public after 25 years and created an online index to the closed records which is available at the Library of Virginia or online at Ancestry.com.
- The **New York City** Department of Health and Mental Hygiene (NYCDoH&MH) revised Article 207 of the New York Health Code to incorporate embargo periods of 125 years for births and 75 years for deaths effective 1 July 2018. Led by the New York Genealogical and Biographical Society (NYG&B) over sixty genealogists attended the hearing, representing many New York area societies and organizations and more than 5,000 genealogists submitted written comments. All the genealogical community achieved from its overwhelming response was an amendment to provide direct descendants and close relatives access to the vital records during the embargo periods. The amendment became effective 1 January 2019.
- Eight years after passage of a law which changed access to **Maine** vital records, the Department of Health and Human Services finally issued its proposed rules which ignored most of the input from the genealogy working group. In response, Maine genealogists found a sponsor in the Senate who introduced new legislation in 2019 that if passed would provide improved access to Vital Records in Maine once again. The bill was opposed by the Secretary of State and the Maine Town and City Clerks Association and killed in the committee despite testimony and written statements by genealogists. The Secretary of State is still taking the erroneous position that genealogists are the cause of identity theft not the massive internet data breaches.
- **Texas** HB 703 was introduced and got out of committee but died in calendars never getting to the floor of the House. It would have increased the embargo on birth records to 90 years.
- If you learn of any legislation which will affect access to public records, contact RPAC at access@fgs.org, janalpert@aol.com, or jan@iajgs.org

How to Create a Better and Safer Identity in America

At the recent NAPHSIS 2019 Annual Meeting, the **Better Identity Coalition**, www.betteridentity.org comprised of major financial institutions, credit cards companies, and credit bureaus, presented a summary of *Better Identity in America: A Blueprint for Policy Makers* which promotes a better system to verify a person's identity than the use of Social Security Numbers (SSN). Their proposal involves a "block chain" like procedure which includes the financial institution, a government agency such as the Department of Motor Vehicles which is issuing your Real ID as of October 2020, and your identity confirmed by facial recognition and GPS that you are in the US and not a foreign county. Part of this new system is already in place with GPS, facial recognition, and internet service providers who send codes to your cell phone to verify your identity.

Almost all State Vital Records Officers were attending the same security session at NAPHSIS and heard the same presentation. In addition, the Better Identity Coalition formed after the Equifax data breach in 2018, has the resources to influence the policy makers in Washington.

Data Privacy in the European Union and the United States

The overwhelming issue in 2018 and continues in 2019 is **privacy**—whether it be the GDPR, "right to be forgotten", multi-national technology companies sharing client data etc.—the seminal issue worldwide is individual privacy. Unlike the United States, in the EU, privacy is more important than freedom of speech.

United States

In the United States, California's Consumer Protection Act of 2018 (AB 375), passed in 2018 and to become effective in 2020, is the current "gold standard." In the 2019 legislative session more than 20 bills were introduced to amend the law. Some of the attributes include: granting the consumer the right to request deletion of personal information and for a business to delete that information upon request; granting the consumer the right to request a business to disclose pieces of personal information that it collects; permitting the consumer to opt out of the sale of personal information, and prohibiting the business from "punishing" the consumer by charging the consumer who opts out a different price because they opted out or different quality of service; and defining "personal information" as something that identifies and relates to the consumer including biometric information, geolocation information, audio, electronic, thermal information and more. Biometric information includes a person's physiological, biological or behavioral characteristics, including their DNA, imagery of their eye, finger print, face, hand, etc., and voice recordings.

Other states have enacted legislation but none have gone as far as California. In some states, such as Washington, the technology companies were successful in defeating legislation. None address the right to be forgotten as it is known in the EU.

There are multiple bills in Congress addressing privacy but so far none have passed either chamber.

European Union

If you are a genealogist researching ancestors in one of the twenty-eight-member European Union (EU) countries, you have reason to be concerned. Changes in the EU privacy laws have impacted access to family history records.

In May 2016, the European Union (EU) enacted the General Data Privacy Regulation (GDPR) which incorporates the "right to be forgotten." The GDPR became effective on May 25, 2018. To read the GDPR see: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2016:119:FULL&from=EN>. The GDPR does not apply to the processing of personal data of deceased persons. It applies to the processing of personal data wholly or partly by automated means.

The Court of Justice of the European Union (CJEU) has a case brought by France's Data Privacy Regulator (CNIL) regarding whether their determinations may be extraterritorial, that is global, not only in the EU. An advisory opinion opined that the right to be forgotten is solely within the EU. A non-binding advocate general's opinion found for Google limiting the right to be forgotten Internet searches to the EU. A full CJEU decision is expected sometime in 2019. The same advocate general opined on defamatory comments to be removed globally. Again this opinion is not binding and a full CJEU decision is expected later this year.