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Medical Examiners

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Background

IN 1955 THE GENERAL ASSEMBLY enacted legislation allowing counties to appoint local physicians as medical examiners. They were required to investigate any death that apparently occurred under suspicious, unusual, or unnatural circumstances. Only a few counties appointed medical examiners before 1967, when the General Assembly created the present statewide system that requires medical examiners (N.C. GEN. STAT. Chap. 130A, Art. 16).¹ The system was funded a year later.

Before the medical examiner system was established, coroners assumed responsibility for post-mortem investigations. This elected official's historical duty was to determine whether a death was caused by a criminal act or omission. (N.C. G.S. Ch. 152). While counties are still legally authorized to have coroners in office, few continue to do so. In all counties, medical-legal investigations are conducted by county medical examiners. In those counties where a coroner is still active, the coroner either serves as "acting medical examiner" and functions under the medical examiner system or serves as an investigator working in cooperation with local medical examiners.

Organization of the System

North Carolina is among the minority of states with a centralized, state-administered medical examiner system. The system is comprised of the Chief Medical Examiner (CME), his staff of pathologists, toxicologists and others, and a large network of county medical examiners who are appointed and supervised by the CME. The CME's office is

1. See also North Carolina Office of the Chief Medical Examiner Guidelines (available at <http://www.ocme.unc.edu/rules/guidelines.shtml>) (last visited May 5, 2006).

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located in Chapel Hill within the University Hospital complex to ensure proximity to a medical school and its pathology department for the sharing of resources and for teaching purposes. The CME appoints at least one medical examiner for each county, and usually more. Currently, there are approximately four hundred county medical examiners. Their term of office is three years.

Most medical examiners are physicians licensed to practice in North Carolina. By statute, the CME selects county medical examiners from nominees of the county medical society or, if there are none, names any local physician willing to accept appointment. If none is willing, the CME may appoint any other state-licensed physician or a nonphysician. The latter serves as “acting medical examiner.” A nonphysician examiner may be the coroner if there is one, or another responsible person. At this time, nurses and physicians’ assistants are serving in this capacity in a number of counties.²

The Chief Medical Examiner

The CME must be a licensed physician who is specifically certified in forensic pathology. He or she is appointed by the Secretary of Health and Human Services and is an employee of the Epidemiology Section of the Division of Public Health within the Department of Health and Human Services. At present, the CME has a staff of more than forty, including five other pathologists.

While legal responsibility for investigations of deaths in the state rests with county medical examiners, the CME retains ultimate authority for oversight of all investigations. The CME or a member of his or her staff reviews every case investigated by local medical examiners. The CME can assume jurisdiction over any case or assign it to a medical examiner (or acting medical examiner) other than the one in whose jurisdiction the death occurred. The CME is also authorized to amend a death certificate filed by a local medical examiner.

Investigations

The county medical examiner must be notified of deaths that

- result from violence, poisoning, accident, suicide, or homicide;
- occur suddenly when the deceased had been in apparent good health or when unattended by a physician;
- occur in a jail, prison, correctional institution, or in police custody;
- occur as the result of an execution authorized by law; or
- occur under any suspicious, unusual, or unnatural circumstance.

The obligation to report such deaths falls on certain categories of people—attending physicians, hospital employees, and police, for example—but also on anyone who suspects that a death may fall into one of the previous categories. Also, anyone who discovers what may be part of a human body must report it.

Once a county medical examiner receives a report of a death that falls or may fall within his or her jurisdiction, he or she is required to conduct an investigation. The law includes several tools intended to facilitate the investigation. For example, medical examiners have the authority to issue subpoenas, seek administrative search warrants, and review confidential medical records. There are also prohibitions against disturbing a body at the scene of a reportable death, or embalming, burying, or cremating of a body when the death requires investigation.

2. The law provides that if a physician is not available to serve as medical examiner, the Chief Medical Examiner may appoint the “local registrar, deputy registrar, subregistrar or coroner” to serve as medical examiner (G.S. 130A-382). According to the state’s vital statistics laws, the local registrar is the local health director (G.S. 130A-94). Other individuals, such as nurses and physicians’ assistants, may serve as deputies and subregistrars. *See* G.S. 130A-96 (governing the appointment of deputies and subregistrars).

If a medical examiner thinks that an autopsy would be “advisable and in the public interest,” he or she may order one. A district attorney or superior court judge may also authorize performance of an autopsy in a medical examiner case. The CME issues guidelines to define which deaths require autopsy. Sometimes questions arise about a death after the body has been buried. In that case, after the CME authorizes an investigation and the district attorney with jurisdiction petitions the judge, a court may order the body exhumed so that it can be autopsied by the CME.

Across the state, medical examiners investigate about 9,000 deaths each year and approximately 40 percent of these deaths are autopsied. Typically about two-thirds of the autopsies are conducted by contracted pathologists while the remainder is conducted by the CME staff in Chapel Hill. In all cases, following the investigation the county medical examiner files a report with the CME and completes a certificate stating the cause of death.

Records

The office of the CME is the repository of all records of investigations and autopsies. Most of these records are public records and therefore must be made available to any person who submits a request.³ In 2005, however, the General Assembly enacted legislation exempting photographs and video or audio recordings of autopsies from the public records law.⁴ The new law identifies several categories of persons permitted to obtain copies of such materials and it also permits other individuals to petition the court for permission to view the materials.

Financing the System

The medical examiner system costs about \$6 million annually. The state pays approximately 60 percent of the cost through the CME office; the counties, 40 percent, almost entirely in the form of fees to medical examiners and regional pathologists for investigations and autopsies. For example, a county medical examiner is entitled to a one hundred dollar fee for every investigation he or she conducts. If the deceased is a resident of the county in which the death or fatal injury occurred, the county is required to pay the fee and if not, the state is required to pay the fee. With respect to autopsies, the fee is one thousand dollars.⁵

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3. The Office of the Chief Medical Examiner accepts requests for investigation, autopsy, and toxicology reports over the telephone or via a form posted on its website. See <http://www.ocme.unc.edu/docrequest.shtml>.

4. See S.L. 2005-393 (adding new G.S. 130A-389.1 and amending G.S. 130A-389 and G.S. 132-18).

5. The General Assembly raised these fees recently. See S.L. 2005-368 (amending G.S. 130A-387 raising the investigation fee from \$75.00 to \$100.00); 1998-212 s. 29A.10 (raising the autopsy fee from \$400.00 to \$1,000.00).

