

ARTICLE 32

Medical Examiners

by Aimee N. Wall

Background / 1

Organization of the System / 2

The Chief Medical Examiner / 2

Investigations / 2

Records / 3

Financing the System / 3

Background

IN 1955 THE GENERAL ASSEMBLY enacted legislation allowing counties to appoint local physicians as medical examiners. The medical examiners 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.¹ The system was funded a year later.

Before the medical examiner system was established, coroners assumed responsibility for postmortem investigations. This elected official's historical duty was to determine whether a death was caused by a criminal act or omission.² 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.

1. N.C. GEN. STAT. CH. 130A, ART. 16 (HEREINAFTER G.S.). See also North Carolina Office of the Chief Medical Examiner Guidelines (available at www.ocme.unc.edu/rules/guidelines.shtml) (last visited Dec. 20, 2007).

2. G.S. Ch. 152.

ISBN 978-1-56011-528-1. This article was last updated in 2008. © 2008 School of Government. The University of North Carolina at Chapel Hill. This work is copyrighted and subject to “fair use” as permitted by federal copyright law. No portion of this publication may be reproduced or transmitted in any form or by any means—including but not limited to copying, distributing, selling, or using commercially—without the express written permission of the publisher. Commercial distribution by third parties is prohibited. Prohibited distribution includes, but is not limited to, posting, e-mailing, faxing, archiving in a public database, installing on intranets or servers, and redistributing via a computer network or in printed form. Unauthorized use or reproduction may result in legal action against the unauthorized user.

Organization of the System

North Carolina is among the minority of states with a centralized, state-administered medical examiner system. The system is made up of the chief medical examiner (CME); his or her 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 located in Chapel Hill within the UNC Hospitals 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 400 county medical examiners. Their terms of office are 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 an "acting county medical examiner," who may be a licensed physician from another county, a physician assistant, a nurse, a coroner, or an individual who has taken a training course approved by the CME.³ An acting medical examiner has the all of the same responsibilities and authorities as a medical examiner, except that he or she may not perform autopsies.

The Chief Medical Examiner

The chief medical examiner 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 more than forty staff members, 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 may 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, or 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.

3. See S.L. 2007-187, sec. 4 (amending the list of individuals authorized to serve as acting county medical examiner).

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 an 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 result in autopsies. Typically about two-thirds of autopsies are conducted by contracted pathologists while the remainder are conducted by the CME’s 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 Chief Medical Examiner 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.⁴ In 2005, however, the General Assembly enacted legislation exempting photographs and video or audio recordings of autopsies from the public records law.⁵ 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 pay 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 \$100 fee for each 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 \$1,000.⁶ In addition to sharing in the fees, counties are required to provide or contract for a facility for the examination and storage of bodies.⁷

Aimee N. Wall is a School of Government faculty member who specializes in, among other things, public health law.

4. 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>.

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

6. The General Assembly raised these fees recently. See S.L. 2005-368 (amending G.S. 130A-387, which raises the investigation fee from \$75 to \$100); S.L. 1998-212, sec. 29A.10 (raising the autopsy fee from \$400 to \$1,000).

7. See S.L. 2007-187, sec. 5 (adding the facility requirement to G.S. 130A-381).

