

MEDICAL EXAMINERS COMMISSION MEETING

Virtual Meeting via GoToMeeting
August 14, 2020 10:00 AM EST

Commission Chairman Stephen J. Nelson, M.A., M.D., F.C.A.P, called the meeting of the Medical Examiners Commission to order at **10:16 AM**. He advised those in the audience that the meetings of the Medical Examiners Commission are open to the public and that members of the public will be allowed five minutes to speak. He then welcomed everyone to the meeting and asked Commission members, staff, and audience members to introduce themselves.

Commission members present:

Stephen J. Nelson, M.A., M.D., F.C.A.P., District 10 Medical Examiner
Barbara C. Wolf, M.D., Districts 5 & 24 Medical Examiner
Wesley H. Heidt, J.D., Office of the Attorney General
Robin Giddens Sheppard, L.F.D., Funeral Director
Kenneth T. Jones, State Registrar, Department of Health
Hon. Charlie Cofer, J.D., Public Defender, 4th Judicial Circuit
Hon. J. Harrell Reid, Hamilton County Sheriff
Hon. Carol R. Whitmore, R.N., Manatee County Commissioner

Commission staff present:

Vickie Koenig
Megan Neel

Chad Lucas
James D. Martin, J.D.

District Medical Examiners present:

Jon R. Thogmartin, M.D. (District 6)
Craig Mallak, M.D. (District 17)
Riazul H. Imami, M.D., Ph.D. (District 22)
William F. Hamilton, M.D. (District 8)
Sajid S. Qaiser, M.D. (District 18)
B. Robert Pietak, M.D. (District 4)
Jay Radtke, M.D. (District 14)

Wendolyn Sneed, M.D. (District 15)
Russell S. Vega, M.D. (District 12)
Patricia A. Aronica, M.D. (District 19)
David T. Stewart, M.D. (District 2)
Emma Lew, M.D. (District 11)
Joshua D. Stephany, M.D. (Districts 9 & 25)
Michael Steckbauer, M.D. (District 16)

Other District Personnel present:

Christine Canard (District 19)
Bill Pellan (District 6)
Paula Greer (District 8)
Mary Ripple, M.D. (District 7)
Tiffany Poston (District 2)
Thomas Steinkamp (District 17)
Wendy Lavezzi, M.D. (Districts 5 & 24)
Shanedelle Norford-Harry, M.D. (Districts 9 & 25)
Benjamin Mathis, M.D. (District 11)
Katherine Kenerson, M.D. (District 11)
Darren Caprara (District 11)
Barbara Rolle (District 11)
Leslie Cummings (District 11)
Lenny Wolf (District 11)
Anthony Vinson, D.O. (District 15)
Ralph Saccone (District 15)
Tim Crutchfield (District 4)

Kelly Boulos (District 23)
Ricardo Camacho (District 8)
Karla Orozco (District 7)
Cassie Boggs, M.D. (District 7)
Penny Fulton (District 22)
Chris Boden (District 17)
Lindsey Bayer (Districts 5 & 24)
Sheri Blanton (Districts 9 & 25)
Mark J. Shuman, M.D. (District 11)
Diane Boland (District 11)
Ernest Louis (District 11)
Brittney McLaurin (District 11)
Jeff Martin (District 1)
Craig Engelson (District 18)
Terrill Tops, M.D. (District 15)
Whit Majors (District 14)
Jeffrey Brokaw (District 4)

Brittany Glad (District 4)
Betsy Moore (District 4)

Rachael Hautau (District 4)
Deb Wellmann (District 4)

Guests present:

Bruce Goldberger, Ph.D. (UF)
Jon Rigsby (FDLE)
Karen Card, DrPH (DOH)
Phoebe Stubblefield (UF)
Peter Martin (Bernardo Garcia Funeral Home)
Susan Rabel (LifeLink)
Melissa Kelly (LifeLink)
Larry Cochran (LifeQuest)
Heather Hoog (Lions Eye Institute)
Karin Frosio (LifeNet Health)
Gary Sammet (DOH)
Jessica Zayakosky (Legacy Donor Services)

Brendie Hawkins (FDLE)
Linda Pollard (FDLE)
DiAnn McCormack (CorneaGen)
Jason Byrd (FEMORS, District 8)
Becky Sayer (LifeLink)
Liz Lehr (LifeLink)
Regina Paulkie (LifeLink)
Linda McCluskey (LifeLink)
Linda Sullivan (Steward Reference Lab)
Amy Reese (Lions Eye Institute)
Thomas Davis (Our Legacy)

A MOTION WAS MADE, SECONDED, AND PASSED UNANIMOUSLY FOR THE COMMISSION TO APPROVE THE AGENDA.

A MOTION WAS MADE, SECONDED, AND PASSED UNANIMOUSLY FOR THE COMMISSION TO APPROVE THE MINUTES OF THE FEBRUARY 11, 2020 MEDICAL EXAMINERS COMMISSION MEETING.

ISSUE NUMBER 1: INFORMATIONAL ITEMS

- Status Report: MEC Appointment and Reappointment: Mrs. Vickie Koenig informed the Commission that the reappointment paperwork for Dr. Stephen J. Nelson, Dr. Barbara C. Wolf, and Mrs. Robin Giddens Sheppard are in the Governor's Appointments Office and they have everything they need for those reappointments. Additionally, the appointment paperwork for the vacant State Attorney Seat has been submitted to the Governor's Appointments Office and they have everything they need for the appointment. We are currently awaiting approvals from the Governor's Appointments Office.
- Status Report: DME Appointments and Reappointments: Mrs. Koenig informed the Commission that the Governor's Appointments Office has stated they have received all necessary paperwork for the reappointments of Districts 8, 10, 12, 14, and appointments for districts 4 and 19. We are currently awaiting approvals from the Governor's Appointments Office.
- District 1 Search Committee Update: Dr. Nelson informed the Commission that meetings have been on hold because of COVID-19. However, the Search Committee will be having a meeting on August 19, 2020 to consider one candidate who applied for the position. He will provide follow-up once that meeting has concluded.
- 2019 Interim Drugs in Deceased Persons Report: Mrs. Neel informed the Commission that the 2019 Interim Drugs in Deceased Persons Report was published to the MEC website in April.

- 2019 Annual MEC Reports: Mrs. Megan Neel informed the Commission that all of the data has been submitted for the Annual Workload Report and the Annual Drugs in Deceased Persons Report. The data for the Annual Drugs in Deceased Persons Report has been returned from the QAC and are ready for the districts to review.
- 2019 Paul Coverdell Forensic Science Improvement Grants Program Status Update: Mr. Chad Lucas reported that the funds for the 2019 grant were released by NIJ on January 10, 2020. The total amount of funds allotted to medical examiners for the 2019 grant \$45,262.00 and there are 18 districts participating. Award packages were sent out to those districts on January 27, 2020, and Memorandums of Understanding (MOUs) were sent out during the week of February 3, 2020. Participating districts were advised that they may begin spending money on items on their approved 2019 Expenditure Lists, but reimbursement requests will not be processed until a signed MOU is received by the FDLE grant manager. To date four reimbursement requests and three budget amendment requests have been made. Mr. Lucas informed the districts that all budget amendments are due by September 16, 2020, and asked they be mindful of the grant timeline when submitting budget amendments or reimbursement requests.
- Bills Filed for the 2020 Legislative Session: FDLE Acting General Counsel Jim Martin, J.D., informed the Commission of the following bill of interest for the MEC:

Elder Abuse Fatality Review Teams (SB 400) – This bill was signed into law by the Governor and went into effect July 1, 2020. It authorizes the establishment of elder abuse fatality review teams in each judicial circuit, to be housed, for administrative purposes only, in the Department of Elderly Affairs. It will authorize elder abuse fatality abuse teams in existence on a certain date to continue to exist, require each review team to annually submit to the department by a certain date a summary report containing specified information, and provide immunity from monetary liability for review team members under certain conditions. A medical examiner is one of the participants that may be on the review team.

ISSUE NUMBER 2: REAPPOINTMENT NOMINATIONS FOR DISTRICTS 16, 18, 20, 21, 22, 23, AND 24, AND ASSESSMENTS FOR DISTRICTS 15 AND 17

The Commission reviewed the constituent surveys for the reappointments of district medical examiners in District 16 (Monroe County), District 18 (Brevard County), District 20 (Collier County), District 21 (Glades, Hendry, and Lee counties), District 22 (Charlotte County), District 23 (Flagler, Putnam, and St. Johns counties), and District 24 (Seminole County) and voted separately on each district.

WITH NO FURTHER DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR APPOINT MICHAEL STECKBAUER, M.D., AS THE DISTRICT 16 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT.

District 18 Medical Examiner Sajid Qaiser, M.D., shared with the Commission his efforts to mediate the situation mentioned in District 18 Judicial Circuit Public Defender Blaise Trettis' unfavorable ballot. **WITH NO FURTHER QUESTIONS OR DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR REAPPOINT SAJID S. QAISER, M.D., AS THE DISTRICT 18 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT.**

WITH NO FURTHER DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR REAPPOINT MARTA U. COBURN, M.D., AS THE DISTRICT 20 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT.

WITH NO FURTHER DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR REAPPOINT REBECCA A. HAMILTON, M.D., AS THE DISTRICT 21 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT.

WITH NO FURTHER DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR REAPPOINT RIAZUL A. IMAMI, M.D., AS THE DISTRICT 22 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT.

Sheriff Reid shared with the Commission that he spoke with St. Johns County Sheriff David Shoar, and that Sheriff Shoar indicated everything between his office and the medical examiner's office had been fixed and was going well, and that Sheriff Shoar no longer wished to maintain his unfavorable recommendation for Dr. Bulic's reappointment. Sheriff Reid also spoke with Flagler County Sheriff Rick Staly and that there was a little bit of a misunderstanding about information given to Sheriff Staly in a homicide investigation. Sheriff Staly no longer wished to maintain his unfavorable recommendation for Dr. Bulic's reappointment, but instead, he wanted his recommendation to be changed to *no opinion*. The Deputy County Attorney for St. Johns County was on the line to answer any questions raised concerning Dr. Bulic.

WITH NO FURTHER DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR REAPPOINT PREDRAG BULIC, M.D., AS THE DISTRICT 23 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT.

WITH NO FURTHER DISCUSSION, A MOTION WAS MADE, SECONDED AND PASSED UNANIMOUSLY TO RECOMMEND THE GOVERNOR APPOINT BARBARA C. WOLF, M.D., AS THE DISTRICT 24 MEDICAL EXAMINER. NO OTHER NAMES WERE SUBMITTED FOR CONSIDERATION IN THIS DISTRICT. Dr. Wolf recused herself from this vote.

The Commission also reviewed the survey assessments for District 15 (Palm Beach County), and District 17 (Broward County). Districts 15 and 17 are home rule districts. District 19 Medical Examiner Patricia A. Aronica, M.D., was appointed as interim district medical examiner on March 19, 2020, therefore assessments were not conducted in that district.

ISSUE NUMBER 3: 2020 COVERDELL AWARDS

Mr. Lucas informed the Commission that the solicitation for proposals for the 2020 Coverdell Grant was e-mailed to the districts on January 9, 2020, with a deadline for completed proposals of January 24, 2020. Seventeen districts returned proposals totaling \$49,092.01 in requested grant funds. On April 27, 2020, Mr. Lucas was notified by the grant manager that the Medical Examiner allotment for the 2020 grant would be \$45,262. Split evenly between the 17 participating districts, each district would be eligible to receive \$2,662.47. Mr. Lucas also informed the Commission that Coverdell grant management has shifted from the National Institute of Justice to the Bureau of Justice Assistance and on October 1, 2020, the grant will begin operating on the federal fiscal year.

ISSUE NUMBER 4: COVID-19 REPORTING

Mrs. Koenig referred the Commission to a letter from District 12 Medical Examiner Russell S. Vega, M.D., in the meeting booklet regarding the continuing COVID-19 response by Florida medical examiners. She also referred the Commission to a letter sent by the President of the Florida Cemetery, Cremation, and Funeral Association (FCCFA) regarding issues they are having relating to COVID-19 deaths. Mrs. Koenig stated that this is the first Commission Meeting held since the beginning of the COVID-19 pandemic due to travel restrictions and stay at home orders. Over the past months, Dr. Nelson and MEC Staff have received several questions regarding COVID-19 and reporting deaths. She stated that s. 406.11, F.S., dictates that when there is a disease constituting a threat to public health, the deaths associated with it become medical examiner cases. Additionally, with the Governor and the State's Surgeon General declaring a state of emergency and a public health crisis, the mechanisms to report deaths to MEC staff were initiated. This reporting mechanism is no different than what happens during the threat from a hurricane.

Dr. Nelson proceeded to discuss the talking points of the letter submitted by Dr. Vega. The first question in the letter asked, "Is the state interested in having deaths reported that are due to the chronic effects of the infection?" Dr. Nelson went on to say that he didn't think that the state is interested in any of this. The Medical Examiners Commission fought them when they first started collecting COVID-19 death data because the Department of Health said it was private information, was not public record, and could not be released. They ended up being threatened with a lawsuit and eventually backed down on that stance. The Commission is not going to tell the medical examiners how to certify these deaths. The first thing to look for is a positive COVID-19 test result. If something happens and they die years down the road, he thinks that medical examiners would approach that if they had proximity, just like they would approach it with any other thing where proximity would apply. At his office, they have taken a simpler opinion that if they certify a death as COVID-19 pneumonia, and then families call them later on and say they really need hypertensive heart disease or diabetes on the death certificate, they will happily oblige them provided that the medical records reflect those two disease processes.

The second question posed in Dr. Vega's letter was, "At what point does COVID-19 become a natural disease not falling into the medical examiner's jurisdiction, like influenza?" Dr. Nelson went on to say that it has always been a natural disease, and that related deaths would no longer fall under their jurisdiction when the pandemic has ended. The way we have collected data through the MEC is based on the Governor's Executive Order.

The third question in the letter asked, "If the executive order is rescinded soon, do the medical examiners stop reporting the deaths to the state or even reporting them at that point?" Dr. Nelson said that he would use good principles, and the statute says that medical examiners have jurisdiction over cases involving a disease constituting a threat to public health. He also stated that he would find it very odd if someone took the opinion that COVID-19 is not a disease constituting a threat to public health.

Mrs. Carol Whitmore agreed with Dr. Nelson's opinions about COVID-19 reporting, and felt that he shouldn't have to be involved in all the politics surrounding it. She stated that everyone shouldn't be concerned with all of the noise going around about COVID-19, and that their primary goal is to protect the citizens and certify deaths properly.

Mrs. Sheppard said her concern lies mostly with the concerns in the FCCFA's letter regarding delays in getting cremation authorizations. As funeral homes continue to serve the families of the deceased,

they would like to do it in an expeditious manner. In her local district in Jacksonville, there hasn't been an issue with running out of cooler space, ordering cooling trucks for storage, etc., but she knows Miami-Dade has been experiencing those issues, and wanted to know if there was anything that could be done so death certificates could be approved for cremation authorizations quicker.

Dr. Nelson said that in his office, he has asked for the COVID-19 test result, a medical and physical history, and a death summary. Usually what he gets, especially from AdventHealth is around 130 pages of records, mostly of things not requested by the Medical Examiner's Office. Having to weed out the unwanted documents alone, is extremely time consuming.

Dr. Wolf stated that her office experiences those same issues, but they, along with other offices, also have prolonged delays in even receiving the records. That is adding to the difficulty in getting death certificates and cremation authorizations out.

Dr. Nelson said that another delay in the process is actually receiving test results. At this time, it is taking up to two weeks for COVID-19 tests to be returned, but some places are treating presumptive diagnoses as COVID-19 deaths, and when the tests come back, the decedents either don't have a test result or have negative test results. That creates an additional amount of work because the medical examiner has to contact the physician who said the death was COVID-19 related and see where they are coming up with their COVID-19 diagnosis. To this point, Florida medical examiners have certified almost 8,500 COVID-19 deaths, which is a tremendous additional workload for everyone. One potential fix would be to issue cremation authorizations without reviewing medical records, but that could lead to big problems as well.

Dr. Vega said that, from a philosophical standpoint, he completely agrees with the points Dr. Nelson made, but feels this is more than just a philosophical issue. For Florida medical examiners, this is an existential issue. In order to do all of the investigative research Dr. Nelson mentioned, his office has doubled the volume of work it normally does. It requires investigators to take calls all night on every reported COVID-19 death, follow up on medical records (sometimes more than once), reviewing the voluminous records that come in a sufficient medical certainty to determine that COVID-19 caused the deaths or not, and then to document all those findings so that there is public comfort in the degree of scrutiny they are giving the cases and the reason why they are coming up with COVID-19 diagnoses. His concern is that medical examiner offices may not survive with their investigative capacity intact because of having to shoulder the burdensome yet clearly important workload that has been thrust upon them by this pandemic. His real concern is when they can expect to not be suffering under this burden. He has lost staff because of this issue, and he wants to be able to do the other critical work that is required of his office too. It's not that he has a philosophical issue with having to work COVID-19 cases, but he is just concerned that the medical examiner offices survive in order to do the other important work they need to do.

Dr. Nelson asked Dr. Vega if he had any suggestions. Dr. Vega said that he thinks that at some point it is reasonable to say that an infectious disease that circulates through the community is reasonably treated as a routine threat to the public health, of which there are many, but they are not routinely reported to and investigated by the medical examiner. He thinks that their clinical colleagues, at this point, are pretty good at diagnosing COVID-19 deaths. At some point there needs to be a transition from this being a medical examiner diagnosed cause of death to a clinician diagnosed cause of death.

Dr. Nelson did not disagree with Dr. Vega on his point, but questioned when that transition would take place, because he doesn't see it happening anytime soon. Dr. Vega agreed with Dr. Nelson about the time of transition, but he has great concern of how the office will continue to manage this if they don't get to that transition point. He wants to provide top-quality death investigations to his community, but

when his staff is stretched so thin because of the additional COVID-19 burdens, he is concerned that he may not be able to do that anymore.

Dr. Nelson said he certainly agrees with that and suggested that each District Medical Examiner speak with the budget people in their districts and tell them they will probably be over budget for this fiscal year as well as the next fiscal year until the state and the country get a handle on this pandemic.

Dr. Vega agrees with that and has already spoken to his budget people. One of the main issues that he has is that the budget that is mostly impacted is that of people. It takes personnel and man hours to get the work done. To get this workload done in a manner that reflects typical medical examiner work would require adding at least 50% more additional staff. There would be no way he could justify keeping all of that staff once all of this subsidies, which leave him in the unenviable position of hiring people and then letting them go after the short term. He hopes that he can avoid having to do that.

Dr. Nelson said he understands that, and that in the past FEMORS has been used in situations where medical examiner offices' staffing resources have been stretched thin. They have been helping Districts 11 and 14 in their offices.

Dr. Goldberger made a presentation on the FEMORS COVID-19 activation and response. Currently FEMORS has sent 5 death investigators to District 11, 1 death investigator to District 14, and 5 death investigators to District 17. The investigators have been in District 11 for 3 weeks, in District 14 for 1 week, and in District 17 for 2 weeks. He provided metrics stating that one FEMORS investigator can complete 5-10 cases per day which includes intake, investigation, preparation of the report for the medical examiner, and EDRS submission. His metrics showed that on average it takes 30-45 minutes per case for the intake process which includes requesting reports from hospitals, nursing homes, long-term care facilities, physicians, or funeral homes. After those records are obtained, it takes an additional 15 minutes per case to review the case information and an additional 15 minutes per case to complete the EDRS record. Based on this information, he said that most typical cases can be completed in an hour to an hour and a half, but stressed that not all cases are typical cases and some take much more time than others.

Dr. Nelson said that a 30-45 minutes work time for getting reports is certainly not what medical examiner offices is experiencing, and in Dade County alone it is taking days to get medical records in. Dr. Goldberger said that the 30-45 minutes time for requesting medical records only accounts for the amount of time the investigators work to get those records and does not include the wait after the requests are made. Dr. Nelson said that the thing that is really taking a lot of time is the wait for the medical records to arrive at the medical examiners' offices. Dr. Goldberger agreed, but said as far as daily metrics go, the data shows how many cases an investigator can complete.

Dr. Goldberger went on to discuss how to sustain the FEMORS effort during the course of the COVID-19 pandemic. FEMORS was never designed or built to supply offices over the course of long-term activation such as a pandemic, but instead for assistance during events such as hurricanes, an aircraft crash, or a mass shooting. He went on to say they really need help in recruiting forensic pathologists for death certifications. FEMORS is in a position where they can hire pathologists for the pandemic. They must be licensed in the State of Florida, and will be a temporary University of Florida employee with compensation. Much of the work can be done remotely and will not require relocation around the state. FEMORS is also in the process of recruiting additional death investigators as their reserves have been depleted and staff currently has to be rotated in and out on a two-week cycle. They are in the process of recruiting from the DMORT resources in the Southeast US region. These investigators do not necessarily have to come from Florida, but will be temporary University of Florida employees and receive compensation.

Dr. Goldberger then went on to say that if the pandemic continues to roll for a very long time, there is a possibility that FEMORS could set up a call center or call centers around the state. It would not be a simple process for the organization, the vetting of personnel, or the funding. However, if it comes to that, FEMORS would be willing to help with the establishment of those call centers to assist with COVID-19 death certifications.

District 11 Medical Examiner Emma Lew, M.D., said the thing that is hurting her office the most is the sheer volume of cases. She said at the end of 2019 the office had closed just over 4,000 cases. As of mid-July 2020, her office has worked almost 5,400 cases as compared to just over 2,500 in the same time span in 2019. Six medical examiners in her district have certified 1,836 COVID-19 related deaths since March 23rd. That, of course, is on top of working all of the other medical examiner cases. The office also has 4 medical examiner fellows, but they are only a month and a half into their training to become competent medical examiners. They are still learning how to properly certify deaths. Fellows have 1 year to learn as much about forensic pathology as possible to be able to practice competently and independently at the end of fellowship. Of course, they must also be properly certified by staff as outlined in Rule 11G, F.A.C. They do have 5 FEMORS investigators in the office, however they are not trained medicolegal death investigators and most of them have no experience with medical examiners. One of them was District 11's photography interns a few years ago and is currently working CSI with Miami-Dade Police Department.

She agrees with all the problems Dr. Nelson, Dr. Vega, Dr. Wolf, and others have previously mentioned and is thankful for the help they have been receiving from FEMORS, but her office is currently at a point where the situation is not sustainable.

Dr. Nelson asked Dr. Lew if the investigators sent by FEMORS were not able to do what she had hoped they could do. She said that they are very useful for taking phone calls, requesting records, inputting records, and having the records linked to the District's system, but they don't really have the experience to do what a normal death investigator would do for them.

Dr. Goldberger confirmed that the FEMORS help are not board-certified medicolegal death investigators, but to his understanding, they are putting all of the information together for the medical examiner's office staff.

Dr. Nelson asked Dr. Lew what it is she needs from FEMORS or others around the state to whittle down her back log, and asked what her backlog was that day. Dr. Lew said her backlog at that time was around 650 cases. There are many cases waiting for adequate records in addition to reports, certifications, and time to actually complete the cases. She went on to say she needed additional personnel including death investigators and medical examiners. Dr. Nelson then asked Dr. Goldberger if there were any certified medicolegal death investigators around the state that are available. Dr. Goldberger said that there weren't any that were already vetted by FEMORS, but they can search for others outside of the state.

Mrs. Koenig asked Dr. Lew if there was anything that could be provided at the state level from the State Emergency Operations Center (SEOC) through mutual aid. There could potentially be some homicide detectives at law enforcement agencies that are trained and could provide some assistance. Dr. Lew said she would speak with her supervisor of investigations and let her know.

Dr. Vega said that FEMORS has almost its entire workforce coming from state medical examiner offices, funeral homes, and other investigative agencies. When people from those agencies are not available because they are totally focused on the increased workload in their own jurisdictions,

FEMORS does not have ready access to the workforce it needs. The problem with the pandemic is that FEMORS doesn't have access to the people they might normally have access to. For example, there are 5 physicians that are registered with FEMORS, and 4 of them are in his own office, and they are all busy. He would love to help Dr. Lew, but his office has had a major influx of cases as well, and he does not have the time, energy, or resources to be able to assist. The resources around the state simply aren't available because everybody is dealing with the same problem. This is an existential problem, and Dr. Lew is feeling it more acutely than anybody else, but we're all in the same boat.

District 15 Medical Examiner Wendolyn Sneed, M.D., said that her office is feeling the burden of COVID-19 as well. They have received 1,334 cases and currently have a backlog of around 510 cases. She has gone through the mission board at the EOC and through the CARES Act has obtained 3 student employees to help with the administrative work as well as 2 temporary COVID forensic investigators. They are in the process of being trained, which has helped a little bit with the investigative parts of these cases. Even with the additional help, the backlog is not shrinking, and additional medical examiners would be helpful.

Mrs. Sheppard said that one of the problems that has been identified is the backlog at hospitals and getting proper medical records instead of an entire case files for decedents. She asked Mr. Ken Jones if there was something that could be done using the Department of Health's quality assurance office, or have the local health departments emphasize to the hospitals the need to scrub the records for pertinent information only before sending them to the medical examiners' offices. Mr. Jones said that's something they can look into, and he would be glad to help the medical examiners and try to emphasize what data they actually need instead of sending hundreds of pages for a single case. He also asked if there was money available through the CARES Act or other grants that could be used to hire pathologists from other states to come in and help.

Dr. Nelson said that his county has received money from the CARES Act and have allotted some of it to his office. He would suggest that other offices contact their county managers and asks them where the CARES Act money is for the medical examiner's office if they haven't already. However, he is more concerned with the amount of backlogged cases in District 11 and District 15 and the lack of resources available to help everyone.

Mrs. Whitmore said she thinks a letter from the Medical Examiners Commission needs to be sent to Governor DeSantis and Senate President Galvano regarding staffing. She doesn't know if anybody at the state level knows about the struggles that have been talked about during this meeting. Dr. Nelson said that money is there to pay for additional help, but there simply aren't enough forensic pathologists nationwide to cover the amount of work that needs to be done. He went on to say the letter is something that could be done, but he wasn't optimistic about it having any real effect on the situation at hand.

Dr. Nelson asked Mrs. Koenig if any COVID-19 discussion goes further than the SEOC. She said that the FDLE Commissioner gets the death counts and the SEOC had brought some concerns to MEC staff from the State's Chief Financial Officer regarding the funeral industry concerns in the Miami-Dade, Palm Beach, and Broward areas of the state. Dr. Nelson suggested that there be a conference call with FDLE's Commissioner, Assistant Commissioners, or someone in the Governor's Office to discuss the various issues discussed during this meeting. Mrs. Koenig said we could work out something with the Division of Emergency Management and our counterpart there to get the right people in the room for a conference call.

District 17 Medical Examiner Craig Mallak, M.D., said that his office's strategy has included taking himself off the autopsy rotation schedule and his chief investigator gives him the list of COVID-19

deaths every day. Dr. Mallak then goes through all of the COVID-19 cases all day, 7 seven days a week. The result of that work has gotten their COVID-19 backlog to around 100 cases. He also said the FEMORS help has been wonderful in getting the additional paperwork necessary to certify the COVID-19 deaths. He has been in talks with County Commissioners and County Administration about hiring more investigators on a permanent basis due to the unlikelihood of the pandemic ending soon as well as a recent explosion of drug overdose deaths. They have agreed that even though these are tough times financially, the extra positions are necessary.

District 14 Medical Examiner Jay Radtke, M.D., said that his district has around 150 or 200 backlogged cases and the number is growing every day. FEMORS has been helpful for him because of how short staffed his office is. The delay in getting records to his office isn't as bad as other places in the state because his district doesn't have as many hospitals, and in some cases, they even have direct access to some of the hospitals' records. They are also getting test results back from the Department of Health fairly quickly. Generally, when records are re-requested it is due to them being handwritten and unreadable.

Dr. Lew said that everyone in her office has been discussing their lack of resources, and in Chapter 11G, F.A.C., it further clarifies that deaths due to a disease constituting a threat to public health should only be investigated if an investigation is requested by an official of the Department of Health. Her office has been wondering if the Department of Health actually directed the Medical Examiners Commission to have medical examiners certify COVID-19 cases. Dr. Nelson said the short answer is that Governor DeSantis' Executive Order declared COVID-19 as a health emergency. Dr. Lew went on to elaborate how her office was in an unsustainable state and that the help they were getting from FEMORS is not enough.

Dr. Goldberger said he could make a call to DMORT and see what it would take to activate them. That would bring in more people to investigate, but it would not help with the death certifications because it has to be done by a licensed physician in the State of Florida.

Dr. Nelson asked Dr. Lew what it would take for doctors to log into her IT system, review COVID-19 records, and certify the deaths. She said her IT department is working on that and that is how they were anticipating a couple of doctors to help them out. She would have to check with the IT staff to see what the status is on that. Dr. Nelson said he is more than willing to help out with COVID-19 death certifications as long as he can do it from home.

District 11 Director of Operations Darren Caprara said that one thing that hasn't been mentioned yet is that their infrastructure is breaking down. Not only are they running out of places to store bodies, but they also do not have enough faxes or phone lines. If more people are brought into the office, then that would require more oversight and management of those people. So not only will the office need more people, but more infrastructure to get through the pandemic. He went on to say that there would essentially need to be a second medical examiner office built.

Mr. Jones asked if an Executive Order allowing non-licensed Florida physicians or pathologists to certify COVID-19 deaths would help, if that was even an option. Dr. Nelson said that he did the math and if the backlogged cases in Districts 11 and 15 were split evenly between all of the medical examiner districts, it would be about 46 cases per office, and that is a number that could potentially be knocked out over a weekend. Mr. Jones then said that if there was anything his staff can do as far as contacting hospitals regarding medical records, he would be glad to help.

Mrs. Whitmore asked Dr. Nelson if his office was hooked up directly to the hospitals' records systems so that he could get the records himself. Dr. Nelson said that in his 3 counties there is only 1 hospital

that allows them to do that. The other hospitals have said there was absolutely no way they would allow that. Even though there is a medical examiner office specific login and the searches are tracked, only one hospital will allow it to happen. Ms. Whitmore then commented that we are in a declared state of emergency, and asked if it would be possible to reach out to the Governor's Office regarding an Executive Order requiring hospitals to give medical examiners direct access to their medical records databases for COVID-19 related deaths. Dr. Nelson thought that was a good idea, but said hospitals not within the Governor's purview would probably still decide who would have access to their medical records department.

Jeff Martin said in District 1 they get a lot of death notifications through EDRS because the doctors are certifying the deaths as COVID-19 related and then they are kicked to the medical examiner's office for review. He then went on to say they have more doctors who are confused about why they aren't able to certify instead of those who aren't willing to certify COVID-19 deaths. Then he asked if it would be prudent to look for a solution where doctors are allowed to sign their patients' death certificates, but still report the deaths to the medical examiner's office for statistical purposes. Dr. Nelson said that would certainly be a possibility if they were able to indicate those particular physicians were associate medical examiners as the only two categories of people who can currently certify COVID-19 deaths are district medical examiners and associate medical examiners. Mr. Martin then said he just didn't know if there was a mechanism within an emergency order from the Governor that would allow for non-medical examiner physicians to certify the deaths. Dr. Nelson said he doesn't even think it needs to be something the Governor would be involved with. If the medical examiner's office is comfortable with listing those doctors as associate medical examiners, that is fine, but that would be going against how we have been doing things for the past several months and would add another level of confusion.

District 11 Associate Medical Examiner Ben Mathis, M.D., said that in the Practice Guidelines, when they handle T-cases, it says that the medical examiner can either take jurisdiction of the case and recertify it without bringing the body in as a no body or telephone case, or to allow the physician's death certificate to stand. In District 11 they have around 150 cases in the EDRS queue that have already been signed by a physician. He wanted to know why they couldn't treat these cases like typical T-cases when they know they have a positive COVID-19 test result. That would allow the families to proceed with final arrangements more quickly. He went on to say that these cases aren't even included in the 650 backlogged COVID-19 cases that Dr. Lew mentioned earlier.

District 11 Associate Medical Examiner Mark Shuman, M.D., asked if the Governor's Executive Order specifically states that the medical examiners have to certify all of the COVID-19 deaths. He went on to say that many diseases that are considered public health risks such as tuberculosis, encephalitis, and HIV aren't certified by the medical examiner. The districts do not have the resources or the ability to get caught up on COVID-19 deaths, and it seems like the only way to get caught up on the deaths is to transition into letting other physicians certify the deaths.

Dr. Nelson said that he isn't saying that will not happen in the future, but right now when the Governor's Executive Order and the Secretary of Health saying there is a medical emergency associated with COVID-19, he doesn't see that changing.

Dr. Shuman went on to say that Chapter 11G, F.A.C., limits the authority to the Department of Health's request or if the medical examiner is actually going to be bringing in the body to collect specimens or tissue for additional investigation. This would be a case where you're worried about COVID-19 people who have not been diagnosed, but there is a concern they have COVID-19. At that point the medical examiner would have jurisdiction to bring them in, do the autopsy, swab them, and find out if they had it. Currently the medical examiner offices are taking in cases where positive tests

are known, the Department of Health knows the people died because of Vital Statistics, and the clinicians have been working directly with the patients for weeks and know the circumstances surrounding the deaths. He then said he wants the death certificates to be correct and in a perfect world it would be nice to do all of them, but if this isn't requested by the Department of Health, he isn't quite sure what we are doing here.

Dr. Nelson said that he thought we had already discussed that the Secretary of Health has declared COVID-19 as a medical emergency, and that is with the Governor's declaration under the Executive Order. Dr. Shuman then asked if they specifically said they want the medical examiners to partner with certifying these cases. Dr. Nelson said it is not anywhere near that specific. Dr. Shuman then went on to say that 11G-2.001(3), F.A.C., says that if a medical examiner becomes aware of a death, apparently from disease, he or she shall investigate it as a death from a disease constituting a threat to public health if the investigation is requested by an official of the Department of Health pursuant to Section 381.0011 or 381.0012, F.S., or the medical examiner determines that additional information concerning the cause and mechanism of death, beyond that available in the decedent's medical history, is needed to protect the public health. He then said that he doesn't see how the medical examiners are protecting the public health when all the information necessary to certify the deaths is already known by the Department of Health, clinicians, and primary care physicians. He understands why the medical examiners would take jurisdiction over home deaths and the PUIs without a test result though.

Mrs. Whitmore said that Dr. Shuman does have a valid point and she thinks that it and the problems being experienced throughout the state should be mentioned in the upcoming meeting with the State's health director. The medical examiner community has to think of a way to get past the issues currently being experienced.

Dr. Nelson said that the MEC's policy of counting of deaths associated with a State of Emergency started after Hurricane Andrew so that the state could speak with one voice about deaths associated with the Governor's Executive Order. If the MEC wants to change that, that is fine. However, he didn't see how medical examiners would get around these deaths being a threat to public health anytime soon. He certainly doesn't want the medical examiners to be involved in this for years and years because he is on the same page as everyone else. This is overwhelming for all of our offices. Not just for the staff that has to do this, but with the budgets that come with it. It is an incredible expense. As District 11 has said, it is an incredible hardship for the families and the doctors, but for everyone else involved. Any suggestions for how the medical examiners can uncouple from this would certainly be welcome, but he just doesn't see it happening in the short term.

District 6 Medical Examiner Jon Thogmartin, M.D., said that his district currently has no backlog and they are able to certify their deaths with no trouble. He went on to say that Chapter 406 says that medical examiners determine cause and manner of death, but doesn't say they certify it. There are a bunch of offices he has been involved with that, like District 11, do T-cases where regular doctors sign out non-natural causes of death. The deaths have been reported to the medical examiner, they have determined the causes and manners of deaths, but they allow the clinicians to sign the death certificates. There is nothing forbidding that. Determining cause of death is distinctly different from certifying the cause of death. It is clear in both the statute and the practice guidelines, so we do have an option to steer away from our current course.

Dr. Vega requested that the MEC communicate directly with the appropriate person at the Department of Health to let them know about the implications of the medical examiner determining the cause and manner of death in these cases and to request a specific directive from the Department of Health that allows non-medical examiner clinicians to certify COVID-19 deaths.

Dr. Nelson said that he doesn't think that the Department of Health would have any issues with the medical examiners stepping away from the process. The way the medical examiners got involved in this is because every time the Governor has issued an Executive Order, dating back to Hurricane Andrew, the MEC has held the official death count. It's not so much a Department of Health issue as it is a MEC policy. That policy is something that could be changed right now. If it is the direction of the Commission that, when the Governor issues an Executive Order, that they are no longer the counters of the dead, then that policy can be changed now with a motion. It doesn't require anybody from the Department of Health to be involved.

AFTER SOME ADDITIONAL DISCUSSION, DR. WOLF MADE A MOTION THAT FLORIDA MEDICAL EXAMINERS NEED NOT ACCEPT JURISDICTION OF COVID-19 RELATED DEATHS UNLESS THE PROVISIONS OF RULE 11G-2.001(3), F.A.C., APPLY. RULE 11G-2.001(3), F.A.C., PROVIDES THE FOLLOWING:

IF A MEDICAL EXAMINER BECOMES AWARE OF A DEATH, APPARENTLY FROM DISEASE, HE OR SHE SHALL INVESTIGATE IT AS A DEATH FROM A DISEASE CONSTITUTING A THREAT TO THE PUBLIC HEALTH, IF:

THE INVESTIGATION IS REQUESTED BY AN OFFICIAL OF THE DEPARTMENT OF HEALTH PURSUANT TO SECTION 381.0011 OR 381.0012, F.S., OR

THE MEDICAL EXAMINER DETERMINES THAT ADDITIONAL INFORMATION CONCERNING THE CAUSE AND MECHANISM OF DEATH, BEYOND THAT AVAILABLE IN THE DECEDENT'S MEDICAL HISTORY, IS NEEDED TO PROTECT THE PUBLIC HEALTH.

COMMISSIONER CAROL WHITMORE, SECONDED THE MOTION, AND THE MOTION PASSED 7-1, WITH COMMISSIONER KEN JONES OPPOSING ONLY BECAUSE HE WOULD HAVE PREFERRED THE MOTION TO BE VETTED WITH OUTSIDE ENTITIES PRIOR TO THE VOTE.

In support of the motion, the Commission cited the knowledge gained of the disease during the past five months, delay in obtaining medical records, and the overwhelming number of cases that have resulted in insurmountable and growing backlogs for many districts throughout the state (i.e. 650 cases in Miami-Dade County, 510 cases in Palm Beach County, 100 cases in Broward County, and 100 cases in the 6 counties in the panhandle around Bay County). The Florida Emergency Mortuary Operations Response System (FEMORS) was activated and there were not enough forensic pathologists and medicolegal investigators to support the statewide caseload. FEMORS was created to support short-term events such as natural disasters or other short-term emergency events. The volume of Covid-19 cases pending with medical examiner offices has created significant delays in the issuance of death certificates and cremation authorizations. It has proven to be unsustainable for the state's medical examiner system, and is diverting resources from unnatural deaths that the medical examiners must investigate and certify.

Medical examiners will not automatically assume jurisdiction of Covid-19 cases and treating physicians may certify Covid-19 deaths. It was noted that any cases accepted by medical examiners that are pending would still be certified by the medical examiner.

ISSUE NUMBER 5: UNIDENTIFIED DECEASED INITIATIVE

Linda Pollard made a presentation on a FDLE Unidentified Deceased Initiative (UDI) case solved using genetic genealogy. Back in 2018 FDLE began their genetic genealogy program. Initially it only involved criminal cases such as homicides and sexual assaults, but eventually Linda approached FDLE Chief of Forensic Services Lori Napolitano regarding a collaboration with the UDI and taking on some of their cases for genetic genealogy. UDI did not have the resources at the time, so the only way she could get a case in was if she found a case where they had both suspect and victim DNA that had not made a hit on anything previously. They were able to identify a Valentine Jane Doe case out of Key West in Monroe County. The case was from 1991 and involved a sexual battery and strangulation. The profiles for the victim and the suspect went to Parabon NanoLabs for genetic genealogy analysis, and they were able to identify a suspect for the case. Chief Napolitano was able to identify the victim as Wanda Deann Kirkum. This was the first case in Florida in which an unidentified deceased was successfully identified using genetic genealogy.

Because of the success of genetic genealogy being used to solve the Valentine Jane Doe case, FDLE's Genetic Genealogy Program has agreed to take on more UDI cases. For now, they will only take one active case at a time. The cases can take up to 3 or 4 months for completion. At this time, cases will be limited to homicide victims, but they will not need victim and suspect DNA to work the cases. Ms. Pollard wanted to make it known that with the UDI cases, all the DNA work-ups that can be initiated by the medical examiners or law enforcement (either by UNT or FBI labs) need to be done before the Genetic Genealogy Program begins to work on the case. If DNA extracts are available for the unidentified deceased, they would prefer to receive those. If a DNA extract is insufficient, they are willing to work with a fresh bone sample. Some other factors being considered for the UDI cases are the suitability of the victim and/or suspect DNA with regards to degradation, all other leads on resources being exhausted, the likelihood of developing a suspect, and the immediate threat to public safety. In regards to other non-homicide UDI cases, the victim information can be sent to some other private laboratories such as the DNA Doe Project and Justice Drive.

ISSUE NUMBER 6: EMERGING DRUGS

Bruce Goldberger, Ph.D., provided the Commission with an update on emerging drug trends. He reported that in the forensic casework of Florida's crime laboratories, almost no fentanyl analogs and very few fentanyl exhibits have been present. The most common cathinone has been eutylone, and his lab alone has seen this drug in up to three cases. There have been designer benzodiazepines not showing up in post-mortem screens, but noted in the report, particularly etizolam and flualprazolam. A few sightings of xylazine and isotonitazene have also occurred.

ISSUE NUMBER 7: 2021 FAME EDUCATIONAL CONFERENCE

Bruce Goldberger, Ph.D., reported to the Commission that the 2020 FAME Educational Conference was cancelled due to COVID-19, but has been rescheduled for July 21-23, 2021, at the Waldorf Astoria Orlando. He will be sending out a Save The Date in the fall.

ISSUE NUMBER 8: OTHER BUSINESS

- Mr. Ken Jones provided the Commission with an update from the Department of Health (DOH) Bureau of Emergency Medical Oversight regarding grants associated with medical examiners. The

OPIS grant provided \$437,000 for supplementing the budgets of medical examiners in Florida to alleviate shortfalls caused by the opioid overdose crisis. The Department was successful at spending \$350,812 (80%) in a fourteen-week project period. OPIS funds were distributed to fifteen of Florida's medical examiner districts (Districts 1, 2, 5, 6, 8, 9, 10, 12, 14, 15, 16, 18, 19, 22, and 23). The total amount of OPIS funding was distributed to four commercial laboratories chosen because medical examiners in Florida had existing relationships with them. Six districts were not funded during this short project period because those districts have in-house laboratories.

At the end of March, the Department continued to accept invoices from the four commercial laboratories, with a goal of providing uninterrupted funding. The continued funding would be provided by the Overdose Data to Action ('OD2A') grant from the CDC, a three-year grant that began September 2019 and extends through August 2022.

OD2A provides approximately \$550,000 per year for the purpose of enhancing toxicology testing (or improved reporting) for suspected drug overdose fatalities in Florida, which is the identical goal addressed by past funding.

Budget authority shortfalls in April through the budget signing by Governor Ron DeSantis on June 29, 2020 followed by changes in accounts brought on by the fiscal year turnover prevented the Department from paying those invoices until the present. The Department called a temporary halt on August 14 and is resolving payment issues created this year before resuming the project.

Plans to distribute funds to the six ME districts that have in-house laboratories were delayed by the budget authority shortfall previously described, but OD2A staff have budgeted an additional \$200,000 in this second grant year for those districts; those additional funds are part of year 1 redirected funds. Dr. Card welcomes any suggestions or ideas about distributing funds to those districts.

Record requests for fatal drug overdose surveillance will be combined with record requests for the Violent Death Reporting System. DOH staff sent both records requests as separate emails in the spring, which resulted in confusion for some districts about which records had been fulfilled. DOH staff plans to make a greater effort to clarify the two programs and their records requests in the future. Records requests for January-June 2020 have gone out.

The OD2A project has added the collection of monthly counts of suspected fatal drug overdose from medical examiners to the overall surveillance of drug overdose. Our data collection begins with July 2020 counts, and our first submission to the CDC is in September. A case definition was developed with the surveillance advisory committee. As soon as possible, this monthly data collection will be carried out by scientists at the Florida Drug-Related Outcomes Surveillance and Tracking (FROST) System at the University of Florida. Until the activity can be transferred, our FL-DOSE team will make requests for this information. Initial invitations have gone out.

- Ms. Koenig reminded everyone that the next Medical Examiners Commission meeting will be either November 10th or November 13th. At this time, it is unknown if the meeting will be virtual or an in-person meeting at an undetermined location.

With no further business to come before the Commission, the meeting was adjourned at 12:56 P.M.