

MEDICAL EXAMINERS COMMISSION MEETING

Renaissance Tampa International Plaza Hotel
4200 Jim Walter Boulevard
Tampa, Florida 33607
August 25, 2017 10:00 AM

Chairman Stephen J. Nelson, M.D. called the meeting of the Medical Examiners Commission to order at **10:00 AM** at the Renaissance Tampa International Plaza Hotel in Tampa, Florida. 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., District 5 Medical Examiner
Wesley H. Heidt, J.D., Office of the Attorney General
Hon. James S. Purdy, J.D., Public Defender, 7th Judicial Circuit
Robin Giddens Sheppard, L.F.D., Funeral Director
Kenneth T. Jones, State Registrar, Department of Health
Hon. Carol Whitmore, R.N., Manatee County Commissioner

Vacant positions on the Commission:

Sheriff
State Attorney

Commission staff present:

Vickie Koenig
James D. Martin, J.D.

Beth McNeil

District Medical Examiners present:

Jon Thogmartin, M.D. (District 6)
Russell Vega, M.D. (District 12)

Joshua Stephany, M.D. (Districts 9 and 25)
Michael Bell, M.D. (District 15)

Other District personnel present:

Jeff Martin (District 1)
Jennifer Dierksen, M.D. (District 4)
Jennifer Park, D.O. (Districts 9 and 25)
Judy Olson (District 16)
Patricia Wheaton (District 21)

Tim Crutchfield (District 4)
Bill Pellan (District 6)
Gary Utz, M.D. (Districts 9 and 25 / FAME Pres.)
Stephen Robinson, M.D. (District 17)

Guests present:

Bruce A. Goldberger, Ph.D. (UF)
Rebecca Sayer (LifeLink)
Kelsee Hentschel-Fey (USF)
Joshua Sturms (DOH)
Karen Card (DOH)
Stephanie Moody-Geissler (DCF)
Regina Ross, J.D. (St. Johns County)
Linda Pollard (FDLE)
Karen Weaver (FDLE)

Ricardo Camacho (UF)
Ashley Crawford Ramos (KeraLink International)
Chandler Brownlee (LifeNet)
Leah Colston (DOH)
Chris Bufano, J.D. (FDLE)
Lynnetta Oxendine (TransLife)
Heather Hoog (RTI Donor Services)
Andrew Shelton (FDLE)
Valerie DeLeon (UF / CAPHIL)

Janet Finlayson (UF / CAPHIL)
Melissa Pope (USF)

Katie Rubin (UF / CAPHIL)
Jake Martin (St. Augustine Record)

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

Dr. Nelson noted an error on page 3, first paragraph, fourth line. The word 'been' should be stricken so that the line will read: "requested and were ~~been~~ granted an extension of the deadline for their response. Dr. Nelson stressed that". **A MOTION WAS MADE, SECONDED, AND PASSED UNANIMOUSLY FOR THE COMMISSION TO APPROVE THE MINUTES AS AMENDED OF THE MAY 10, 2017, MEDICAL EXAMINERS COMMISSION MEETING.**

ISSUE NUMBER 1: INFORMATIONAL ITEMS

- Status Report: MEC Appointments and Reappointments – Ms. Koenig informed the Commission there is a new contact person in the Governor's Appointments Office, and they have all the necessary paperwork for all the outstanding positions. The District Medical Examiner, the Funeral Home Director, and the County Commissioner positions on the MEC are still pending gubernatorial appointment.

The Sheriff seat, vacated when Clay County Sheriff Rick Beseler retired, has not yet been filled. The nominees are Sheriff Harrell Reid (Hamilton County) and Sheriff Lou Roberts (Jackson County).

Mr. Jim Purdy completed his second full term on June 30, 2017, and he will continue to serve until his replacement is appointed. The Public Defender nominees are Hon. Charles Cofer (4th Judicial Circuit) and Hon. Carey Haughwout (15th Judicial Circuit).

The State Attorney seat, vacated when 4th Judicial Circuit State Attorney Angela Corey lost her bid for reelection, is still pending gubernatorial appointment. The nominee is Hon. Jeffrey Siegmeister (3rd Judicial Circuit).

- Status Report: District 14 Appointment – The recommendation of Jay M. Radtke, M.D. as District Medical Examiner in District 14 (Bay, Calhoun, Gulf, Holmes, Jackson, and Washington counties) is still pending gubernatorial appointment.

- Status Report: Reappointments for Districts 8, 10, 12, and 18-24 – Ms. Koenig informed the Commission the Governor's Appointments Office has not yet reappointed the District Medical Examiners in Districts 8 (Alachua, Baker, Bradford, Gilchrist, Levy, and Union counties), 10 (Hardee, Highlands, and Polk counties), 12 (DeSoto, Manatee, and Sarasota counties), 18 (Brevard county), 19 (Indian River, Martin, Okeechobee, and St. Lucie counties), 20 (Collier county), 21 (Glades, Hendry, and Lee counties), 22 (Charlotte county), 23 (Flagler, Putnam, and St. Johns counties), or 24 (Seminole county). The incumbent District Medical Examiners continue to serve until reappointed or replaced by the Governor, pursuant to Article X, Section 3 of the Florida Constitution.

- 2016 Drugs Identified in Deceased Persons Report – Ms. McNeil reported that the drug data has been received from all the districts. Some of the data is still in the process of quality assurance review.

- 2016 Annual Workload Report – Ms. McNeil stated that the final data from the districts has been received and the Annual Workload report is currently being drafted. A September release date is anticipated.
- 2016 Coverdell Grant – Ms. McNeil announced that she is in contact with the 14 districts awarded funding. Four districts have received approved budget amendments, and 7 districts have submitted reimbursement requests. She will continue to monitor the spending of the remaining districts.

ISSUE NUMBER 2: NOMINATION FOR DISTRICT 16 MEDICAL EXAMINER

Dr. Nelson reported that the Search Committee in District 16 (Monroe County) met July 12, 2017, and chose two finalists. One candidate withdrew from consideration. The Search Committee submitted only Michael R. Steckbauer, M.D. as their finalist for consideration.

A MOTION WAS MADE, SECONDED, AND PASSED UNANIMOUSLY THAT MICHAEL R. STECKBAUER, M.D., BE RECOMMENDED TO THE GOVERNOR FOR APPOINTMENT AS THE DISTRICT 16 MEDICAL EXAMINER.

ISSUE NUMBER 3: DEPARTMENT OF HEALTH GRANT

Representatives from the Department of Health (DOH) addressed the Commission again regarding the status of their grant from the Centers for Disease Control for tracking fatal and nonfatal overdoses of opioids. DOH appeared before the Commission in May 2016 to discuss their interest in applying for the grant, and they were awarded the core grant for a 2-year period beginning September 1, 2017, rather than 3-years as was originally sought. While DOH was approved for 2 years under the core grant, they only have an approved amount of \$493,571.00 for the first budget period (Sept 1, 2017-August 31, 2018). DOH expects they would get a similar amount for the second year. DOH also requested a supplemental grant that could assist the district medical examiners with the cost of toxicology testing.

DOH is targeting 14 medical examiner districts covering 29 counties to provide reports for fatal overdoses that are medical examiner cases. DOH would extract 33 of the 175 data points required for the grant (only 3 of those data points – type of drug poisoning, height, and weight – are medical examiners data, the other 30 are from the toxicology analyses) and the grant should not cause additional work for the targeted medical examiner districts. The districts that are being targeted in the grant are District 1, 4, 6, 7, 9, 10, 11, 12, 13, 15, 17, 18, 21, and 24.

There was discussion among the medical examiners in attendance and the Commission. The DOH was asked to work with the doctors in attendance to determine the best manner in obtaining the desired data points from the medical examiners without duplicating efforts that already exist. DOH was also asked to notify Commission staff if the supplemental grant is awarded to assist in developing a distribution plan. *(NOTE: DOH was notified after the August 25th Tampa MEC meeting that the supplemental grant was awarded in the amount of \$197,428.00. While the \$197,428 is for the first year of the grant, the notice DOH received from the CDC mentioned that future year funding would be based on satisfactory programmatic progress and the availability of funds. It is unknown if the supplemental funds will be available for the second year.)*

ISSUE NUMBER 4: DISTRICT 23 DISCIPLINARY CASES – FREDERICK P. HOBIN, M.D.

Assistant General Counsel Chris Bufano, prosecuting the matter for the Commission, provided documentation that Dr. Hobin retired and is no longer employed as an associate medical examiner in any district. His employment at the District 8 and District 23 offices ended on December 1, 2016, and from the District 19 office on May 3, 2017.

Therefore, the Commission no longer holds jurisdiction to proceed with the proposed disciplinary action against Dr. Hobin. Mr. Bufano recommended that the Commission dismiss the Administrative Complaint in this case without prejudice, with the understanding that if Dr. Hobin is ever appointed as a medical examiner in Florida, the Commission regains jurisdiction to refile the Administrative Complaint. Neither Dr. Hobin nor his counsel were at the meeting.

Dr. Nelson questioned whether all the files were removed from Dr. Hobin's home and are now returned to the possession of the District 23 office. Deputy St. Johns County Attorney Regina Ross said the county retrieved all the documents Dr. Hobin had at his home and that those documents were copies rather than originals.

MS. WHITMORE MADE A MOTION, DR. NELSON SECONDED, AND THE MOTION PASSED UNANIMOUSLY TO DISMISS THE ADMINISTRATIVE COMPLAINT (CASE NUMBER 17-2) AGAINST DR. HOBIN WITHOUT PREJUDICE.

Dr. Barbara Wolf, Mr. Ken Jones, and Mr. Wesley Heidt recused themselves from voting as they were members of the probable cause panel who investigated the complaint.

ISSUE NUMBER 4: DISTRICT 23 DISCIPLINARY CASES – PREDRAG BULIC, M.D.

Mr. Bufano advised the Commission that Dr. Bulic submitted his executed Election of Rights form disputing the findings of fact by the Commission in Administrative Complaint Case Number 17-1, and requested a formal hearing before the Division of Administrative Hearings (DOAH). In preparation for trial, a requirement of DOAH is to determine if a settlement agreement can be reached between the parties. While Dr. Bulic was not present, Ms. Ross was in attendance to answer questions on behalf of Dr. Bulic.

Dr. Nelson stated that the county's recollection of the document's whereabouts and how the whole controversy started were "vastly different". Ms. Ross said this was all prior to Dr. Bulic being appointed to the office, and reiterated that Dr. Hobin and his counsel were not present to speak for themselves and she would rather not speak on his behalf. Dr. Nelson advised that Dr. Bulic is now the superintendent of the records, regardless of what happened before his time with the office.

The proposed Settlement Agreement before the Commission states:

STIPULATION AND SETTLEMENT AGREEMENT

COMES NOW, the Petitioner, Medical Examiners Commission, by and through the undersigned Assistant General Counsel, and the Respondent, Predrag Bulic, M.D., and enter into the following Stipulation and Settlement Agreement pursuant to Section 120.57(4), Florida Statutes, as the final resolution of this cause, subject to ratification and adoption by the Medical Examiners Commission. The Terms of this agreement are as follows:

1. The Respondent maintains his dispute of the allegations set forth in the Administrative Complaint and does not, by entry into this Stipulation and Settlement Agreement, admit the allegations of misconduct set forth in the Administrative Complaint filed herein, but agrees to the terms contained herein in order to dispose of this case and to improve operations of the District 23 Medical Examiner Office.
2. As a condition of entering into this Stipulation and Settlement Agreement, the Respondent has provided the staff of the Medical Examiners Commission with the attached proof of implementation of clear policies and procedures enacted to: (a) ensure that all original documentation related to a death investigation will be housed and maintained in the medical examiner's office in accordance with applicable laws, regulations, rules and policies; and (b) that autopsy photographs will not be disclosed to anyone who is not legally authorized to view them (See Attachment 1).
3. Following review of the policies and procedures attached hereto and described above, should the Medical Examiners Commission determine that they are insufficient to address the storage and maintenance of documentation related to death investigations and the disclosure of autopsy photographs, Respondent agrees to a one-year period of probation. Such probation shall commence fifteen (15) days following the entry of the Final Order and shall continue for one year thereafter. The staff of Medical Examiners Commission shall monitor the probation and provide input to Respondent in developing acceptable policies and procedures. The Medical Examiners Commission will determine if the revised policies and procedures implemented by the Respondent are sufficient to satisfy the requirements under this Stipulation and Settlement Agreement.
4. Should the probation period commence, the parties agree that probation shall terminate upon the showing by the Respondent of the implementation of such acceptable policies and procedures to Commission staff. During such time, Respondent shall not violate any provision of Chapter 406 Part I, Florida Statutes, or Chapter 11G, Florida Administrative Code. Additionally, Respondent shall advise the Medical Examiners Commission staff, in writing, of any change(s) of address, telephone number and/or employment.
5. The undersigned Assistant General Counsel or assignee agrees to recommend that the Medical Examiners Commission adopt this Stipulation and Settlement Agreement as the final disposition of this matter.
6. Both parties understand that this proposed settlement is not final until the Commission has approved and adopted it as the final disposition of this case. The parties further understand that if the Commission does not approve and adopt this Agreement, the case can then proceed to formal hearing as originally requested by the Respondent, unless the parties agree otherwise.
7. The parties stipulate that upon the signing of this Agreement, neither party may thereafter modify the terms of this Stipulation and Settlement Agreement nor repudiate or withdraw from this Stipulation and Settlement Agreement, except upon written consent of the other party or in the event the Commission should by a majority vote reject the terms of this Stipulation and Settlement Agreement.

Mr. Bufano stated if the Commission found Dr. Bulic's policies and procedures to be lacking the Commission had the option to put Dr. Bulic on probation for up to one year in order for him to work

with staff to correct the policies and procedures. Once the policies and procedures were acceptable, Dr. Bulic's probation would end.

If the Commission rejected the settlement agreement, the Commission could attempt to negotiate another settlement with Ms. Ross during the meeting or remand the case to DOAH for prosecution.

Dr. Wolf and Dr. Nelson expressed concerns over Dr. Bulic's response to the administrative complaint in that he denied and made accusations against the Commission's handling of the complaint. Mr. Purdy advised the Commission that Dr. Bulic essentially entered a "no-contest plea" instead of an admission of guilt. Mr. Bufano indicated the case would be going to a trial if the Commission denied the settlement, so Dr. Bulic didn't have any option but to dispute the claims.

There was discussion among the Commissioners about whether to add a period of probation, if only for monitoring purposes. Ms. Ross pointed out that revised policies were implemented in March 2016, and all District 23 staff received appropriate training on handling public records requests. The two staff members who routinely handle public records requests will receive annual training, which they completed in May 2017 for this calendar year.

MR. PURDY MADE A MOTION, MS. WHITMORE SECONDED, AND THE MOTION PASSED UNANIMOUSLY TO ACCEPT THE SETTLEMENT AGREEMENT PRESENTED FOR CASE NUMBER 17-1 AGAINST DR. BULIC.

Dr. Barbara Wolf, Mr. Ken Jones, and Mr. Wesley Heidt recused themselves from voting as they were members of the probable cause panel who investigated the complaint.

ISSUE NUMBER 5: NEXT-OF-KIN HIERARCHY (§406.135(2) F.S. vs. §497.005(43) F.S.)

Mr. Martin advised the Commission that there is a distinction between next-of-kin hierarchy between two sections of Florida Statutes:

- §406.135, F.S., dealing with the release of autopsy photos and recordings, the hierarchy is spouse, parents, then adult child.
- §497.005(43), F.S., dealing with the disposition of the body, the hierarchy is spouse, adult child, parent, etc.

Mr. Martin presented this as an informational item so that the district medical examiners are aware of the differences.

ISSUE NUMBER 6: OVERVIEW OF CHANGES TO RECORDS RETENTION – GS1 AND GS2

Mr. Martin stated that the Records Retention schedules for Medical Examiners (GS2) and General Records (GS1) were updated by the Department of State effective August 2017. Only a few minor changes were made to the wording of "156 – Burial Transit Permits", "169 – Evidence Records: Stained Sections/Embedded Tissues/Specimens", and "183 – Medical Examiner Records: Autopsy Supporting Documents" in the GS2 for medical examiners and they removed "duplicate copies" from the records retention schedule. In the GS1, there were revisions to the retention schedule for administrative matters such as "104- Equipment/Vehicle Maintenance Records", "42 – Purchasing Records", and "28 – Telephone Call Records". Mr. Martin advised the offices to review the updates.

ISSUE NUMBER 7: UNIDENTIFIED DECEASED INITIATIVE

Mr. Andrew Shelton introduced Inspector Linda Pollard, who is new to the position. He informed the Commission of four success stories in the past eight months.

The first case was from 2005 in District 13. An unidentified male was found dead aboard a “go fast” vessel carrying cocaine, when he took his life as the Coast Guard approached. This individual was unknown to the other three occupants aboard the vessel. The other three occupants were interviewed. Eventually, FDLE worked with the Columbian National Police, and he was identified through fingerprints in May 2017.

In 2006, District 21 had a case of an unidentified individual who was found in a mobile home in Clewiston, and it was determined to be a homicide. The individual was found in advanced stages of decomposition, and the face was unrecognizable. The individual was identified by the Department of Homeland Security’s Latent Prints section through fingerprints in May 2017. He was identified as a Mexican national. The U.S. Border Patrol also confirmed his identity through fingerprints.

The next case involved a pedestrian killed in an automobile accident in 1983 in Bay County in District 14. Given the age of this case, all they had were fingerprints and dental. This individual was identified through fingerprints using FDLE’s Biometric Support Services in June 2017.

The last success story is from District 1, and the decedent had been unidentified since November 2016. This individual was found unresponsive and taken to the hospital as a possible drug overdose. He was identified through fingerprints run by the U.S. Border Patrol in July 2017.

Mr. Shelton reminded the Commission that FDLE’s Enforcement and Investigative Support unit is available to assist in the identification of unidentified medical examiner cases. The unit can provide assistance with DNA status, fingerprint submissions, dental records, FCIC/NCIC queries on active missing persons cases, resource information, forensic artist, and can open cases.

ISSUE NUMBER 8: EMERGING DRUGS

Bruce A. Goldberger, Ph.D. addressed the Commission on emerging drugs that are being seen in the medical examiner’s toxicology labs. There has been an influx of fentanyl analogs with the most recent being parafluorofentanyl, para-fluorobutyrylfentanyl, and 4-methoxybutyrylfentanyl. The labs are also seeing 4-ANPP; however, it is a precursor of fentanyl analogs and a metabolite of furanylfentanyl. Florida has not seen any cases of acrylfentanyl yet. Two new designer benzodiazepines have been seen: diclazepam and flubromazepam.

One of the issues the medical examiner toxicology labs face is a lack of street level surveillance, and this is also a problem at the federal level. Dr. Goldberger advised those in attendance that there is a statewide naloxone order that allows the medical examiner offices and toxicology labs to purchase naloxone as a safety precaution.

FDLE Special Agent Supervisor Karen Weaver works with the organized crime intelligence unit. In 2011-2012, her office began to receive a monthly report of new or unusual substances from the FDLE drug chemistry sections. This was initially being used to identify emerging synthetic cannabinoids and cathinones. Beginning in June, the seven local crime labs (Miami-Dade, Broward, Palm Beach, Indian River, Sarasota, Manatee, and Pinellas) also began submitting the report of new or unusual

substances. A review of the last 6 months reports revealed diclazepam, U-51743, and U-49900. She hopes that being able to address the Commission regularly will assist in providing a possible early warning detection aid for the medical examiners.

ISSUE NUMBER 9: 2017 FAME EDUCATIONAL CONFERENCE

Dr. Goldberger reported that the 2017 FAME Educational Conference was an excellent meeting at a great location (Four Seasons Resort, 10100 Dream Tree Blvd., Lake Buena Vista, FL). It was probably one of the best meetings in content that has been held.

ISSUE NUMBER 10: SOLICITATION FOR 2018 FAME EDUCATIONAL CONFERENCE

Dr. Goldberger reported that the 2018 FAME Educational Conference is tentatively scheduled for July 18-20, 2018, at the Mission Inn, Howey-in-the-Hills, Florida, with a \$155 per night rate. The District 14 Medical Examiner's Office will host the 2018 conference.

ISSUE NUMBER 11: OTHER BUSINESS

- Ms. Koenig updated the Commission on the results of the surveys by RTI International, under a contract with the Drug Enforcement Agency (DEA). There are only two districts that had not yet responded to the survey and RTI was very pleased with the response from Florida. Dr. Nelson encouraged the outstanding districts to participate so that complete results can be shared.
- Gary Utz, M.D. addressed the Commission as the incoming President of the Florida Association of Medical Examiners (FAME) to seek the support and assistance from the Commission for Florida's medical examiners to access the Prescription Drug Monitoring Program (PDMP) when needed for their cases. The Commission agreed to provide a letter of support for medical examiner access based upon Commission staff's conversations with the Department of Health.

With no further business to come before the Commission, the meeting was adjourned at 12:23 P.M.