

MEDICAL EXAMINERS COMMISSION MEETING

Hilton Sandestin Beach Golf Resort and Spa
4000 Sandestin Boulevard South
Miramar Beach, Florida 32550
January 18, 2019 10:00 AM CT

Commission member Barbara C. Wolf, M.D. called the meeting of the Medical Examiners Commission to order at **10:26 AM**. She advised those in the audience that Chairman Stephen J. Nelson, M.D. was late to the meeting due to general aviation air traffic control issues and the business informational items on the agenda would be covered until he arrived. She 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
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. Jeffrey Siegmeister, State Attorney, 3rd Judicial Circuit
Hon. J. Harrell Reid, Hamilton County Sheriff
Hon. Carol R. Whitmore, R.N., Manatee County Commissioner (via Teleconference)

Commission staff present:

Vickie Koenig
Beth McNeil
Chad Lucas
James D. Martin, J.D.

District Medical Examiners present:

Andrea N. Minyard, M.D. (District 1 Interim)
Craig Mallak, M.D. (District 17)
Jay Radtke, M.D. (District 14)
Russell S. Vega, M.D. (District 12)

Other District personnel present:

Jeff Martin (District 1)
Kayla Mitchell (District 14)
Lindsey Bayer (District 5/24)
Tim J. Gallagher, M.D. (District 1)
Lisa M. Flannagan, M.D. (District 2)

Guests present:

Karen Card, DrPH (DOH)
Randolph Schilke (DOH)
Eric Yopp (FDLE)
Chris Williams (FDLE)
Hon. Larry Ashley (Okaloosa County Sheriff)
Brad Embry (Okaloosa IG)
Hon. Michael Adkinson (Walton County Sheriff)
Meredith Toups (LifeNet Health)
Bruce Goldberger, Ph.D. (UF)
Greg Marcille, J.D. (SAO, 1st Judicial District)
James Rosa (Lions Eye Institute)
Joshua Sturms (DOH)
Alan Mai (DOH)
Jack Massey (FDLE)
Jon Rigsby (FDLE)
Steve Harker (Okaloosa County SO)
Andrew Thurman (Okaloosa IG)
Lesley Garcia (LifeNet Health)
Rebecca Sayer (LifeLink)
Corey Hebert (LEITR)
Ginny McBride (TransLife)
Tommy Mock (Okaloosa resident)

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 AUGUST 10, 2018 MEDICAL EXAMINERS COMMISSION MEETING.

ISSUE NUMBER 1: INFORMATIONAL ITEMS (PART 1)

- Status Report: MEC Appointment and Reappointments: Ms. Vickie Koenig informed the Commission that the District Medical Examiner, the Licensed Funeral Director (LFD), and the County Commissioner positions on the Medical Examiners Commission have been re-appointed by Governor Rick Scott.
 - Stephen J. Nelson, M.D., the District Medical Examiner of District 10, was reappointed for a term beginning August 29, 2018, and ending July 1, 2020.
 - Robin Giddens Sheppard, L.F.D., a licensed funeral director for Hardage Giddens Funeral Home was reappointed for a term beginning August 29, 2018 and ending July 1, 2020.
 - Honorable Carol Whitmore is a county commissioner in Manatee County and was reappointed for a term beginning August 29, 2018 and ending July 1, 2021.
 - Honorable Charlie Cofer, J.D., the 4th Judicial Circuit's elected Public Defender, was appointed by Governor Rick Scott to the Public Defender position on the Commission. He replaces Public Defender James Purdy from the 7th Judicial Circuit. Mr. Cofer's appointment is for a term beginning August 29, 2018 and ending July 1, 2021.

- Status Report: District 14 and 16 Appointment and Reappointments for Districts 2, 5, 6, 8, 10, 12, and 18-23: Ms. Koenig informed the Commission that Governor Rick Scott reappointed 10 and appointed 1 as District Medical Examiners.
 - Districts 5, 6, 8, 10, 12, 19, 20, and 23 were reappointed effective August 29, 2018.
 - District 14 Interim Medical Examiner Jay Radtke, M.D., was appointed as the District 14 Medical Examiner effective August 29, 2018.
 - Districts 2 and 21 were reappointed effective September 27, 2018.
 - District 16 and District 18 are still pending the Governor's appointment and reappointment, respectively.

- Status Report: District 24: Dr. Wolf announced that she has been appointed District 24 (Seminole County) Interim Medical examiner effective September 28, 2018, by State Attorney, Hon. Phil Archer.

- 2017 Annual MEC Reports: Ms. Beth McNeil reported that the 2017 Annual Workload report was completed and published to the MEC website in September 2018. Ms. McNeil also reported that the 2017 Annual Drugs Identified in Deceased Persons report was completed and published to the MEC website in November 2018.

- 2018 Interim Drugs Identified in Deceased Persons Report: Ms. McNeil reported that the data from all districts has been received and is currently going through a quality review process.

- 2018 Paul Coverdell Forensic Science Improvement Grants Program Status Update: Ms. McNeil reported that the funds for the 2018 grant have not been released by NIJ yet, and are expected to be delayed further due to the federal government shutdown. The total amount for the 2018 grant will be \$42,901.00 and there are 18 districts participating. Award packages will be send out to those districts when the money has been released by NIJ.

ISSUE NUMBER 5: Paul Coverdell Forensic Science Improvement Grants – 2019 Proposals

Ms. McNeil reported that the NIJ's solicitation for the 2019 grant has been delayed due to the federal government shutdown. On January 3rd MEC Staff began collecting proposals for the 2019 grant. The deadline for proposals for the 2019 grant is January 18th.

ISSUE NUMBER 1: INFORMATIONAL ITEMS (PART 2)

- 2019 Medical Examiners Commission Reappointments: Ms. Koenig informed the commission that on June 30, 2019, Dr. Wolf's and Mr. Siegmeister's positions in the Medical Examiners Commission will be up for reappointment. Both have indicated that they are willing to serve additional terms. Staff will reach out to the Florida Association of Medical Examiners and Florida Prosecuting Attorneys Association to receive their recommendations for reappointment. Once information is returned, the recommendations will be forwarded to the Governor's Appointments Office.
- 2019 District Medical Examiner Reappointments and Assessments for Districts 8-14 and 25: Ms. Koenig informed the Commission that on January 2nd, staff mailed surveys and assessments to constituents to solicit input for reappointments. Hard copies were mailed to each constituent in an attempt to get a better response rate, and so far, the return rate has been successful. Reappointments and information obtained from the surveys and assessments will be presented to the Commission at its spring meeting.
- Bill Filed for the 2019 Legislative Session: Ms. Koenig informed the Commission of the following bill of interest to the MEC:

Public Meetings (HB 265 Newton) – This bill applies to meetings of any board or commission of any state agency or authority, or any county, municipal corporation, or political subdivision. It requires notices of any such meeting at least three days prior to the meeting to include publication of the agenda and any materials distributed at the meeting. Two complete copies of the agenda and related items must be available for public inspection at the meeting. Time must be allotted for public comment as either the first or last agenda item. Each member of the public has the right to speak for three minutes. Time may be extended by the chair or restricted to one minute per person when more than twenty individuals request to address an agenda item. A response is required to any question posed to the board or commission either at the meeting or through written correspondence within ten days of the meeting. Written responses must be incorporated into the minutes of the meeting. Proposed effective date is July 1, 2019.

ISSUE NUMBER 8: Unidentified Deceased Initiative:

Ms. Koenig reported the following success story from District 17:

Success Story 1

On August 5, 2015, the District 17 Medical Examiner's Office (MEO) submitted a single piece of evidence in the form of a femur from unknown 1992 case to University of North Texas (UNT) for CODIS entry. A portion of a skeletonized body was discovered in a culvert in Margate, Florida in November of 1992. Information received from Margate Police Department stated that several children were playing by a lake, when they found a human skull and called for their mother, who called police. The skull was found without its lower jaw, but with 13 total bones. The skull and

various bones were found in a culvert which empties into a lake. The remains were transported to District 17 MEO, where the death was later determined to be a homicide by blunt head trauma.

In 2017, a Margate Police Department cold case detective started working on cases and reviewing NamUs entries. While searching NamUs, the detective found the unidentified remains that District 17 MEO entered. The detective located a 1985 missing person report that was never entered into NamUs. The detective created the NamUs case for the missing person and requested NamUs compare the DNA from the unidentified remains and the just entered missing person case. NamUs located a family member of the missing person and obtained a buccal swab. On March 13, 2018, UNT received the DNA family reference sample from Tanya Bazan, the daughter of the missing person, Peggy Ann Domingue. Ms. Bazan's mother went missing from her home in Margate, Florida on July 5, 1985.

On November 12, 2018, District 17 MEO received correspondence from UNT that stated both above mentioned samples were analyzed for human mitochondrial DNA (MtDNA) regions HV1 and HV2, and the samples are consistent with the unidentified human remains originating from the biological mother of Tanya Bazan. Margate Police Department was additionally notified of the match, and made contact with Tanya Bazan and Jeffrey Domingue, son, of the positive identification.

FDLE Member Jon Rigsby reported the following two success stories from District 9:

Success Story 2

The Orange County Medical Examiner's Office (District 9) contacted the Unidentified Deceased Initiative (UDI) for assistance with an unidentified deceased subject found earlier in 2018. The case involved a white male subject whose face could not be recognized due to decomposition. The subject's fingers could not be fingerprinted due to mummification. A Salvation Army shelter, where the man was staying, identified him as Richard Wilks Hedglin. The initiative located a Florida criminal history for Mr. Hedglin, and CJIS Biometric Services conducted a direct comparison of the subject's fingerprints with high resolution photographs of the deceased's fingertips. CJIS confirmed a match between the fingerprint card and the photos. UDI was able to locate information on Mr. Hedglin's next of kin. This information was provided to the District 9 Medical Examiner's Office.

Success Story 3

The case involved a middle aged white male that was found on September 6, 2017. The male collapsed in a parking lot and was transported to a local hospital where he died five days later. Law enforcement collected the subject's belongings on scene and found paperwork and personal effects with the name of Raphael Merrill, but the name could not be confirmed. Submission of the subject's fingerprints to CJIS Biometric Services was inconclusive. The Unidentified Deceased Initiative was able to locate a brother of Mr. Merrill who resides in Maryland. The brother was not able to visually identify Mr. Merrill, and DNA needed to be obtained for a comparison. Inspector Pollard made contact with Maryland State Police and requested their assistance in obtaining a DNA family reference sample from Mr. Merrill's brother. The Maryland State Police was able to obtain the sample and provided it to the District 9 Medical Examiner's Office. The DNA sample was submitted to the FBI Laboratory and they confirmed that the deceased was in fact Raphael Merrill.

Dr. Wolf commented that the Florida Sheriff's Association Cold Case Commission is submitting a proposal for funding to work with NamUs to add another section specifically for cold case homicides. This would allow more interaction with law enforcement and medical examiner offices.

ISSUE NUMBER 6: Mortality Data Exchange

Commission Member Ken Jones presented information about a new program that is being piloted in conjunction with UF lab regarding toxicology submissions. The program will link directly with DOH and could be helpful with the Commission's annual drug reports. He then opened up the floor for suggestions from other medical examiners at the meeting.

Dr. Wolf commented that her office is currently trying to implement a new information management system and suggested that her office would reach out to Ken about suggestions when they get to that point.

District 12 Medical Examiner Russell S. Vega, M.D., made comments based on his history of working with Drug Data Quality Assurance Committee. He mentioned the high amount of variation seen in the information that Districts submit for the Drugs in Deceased Persons Report and how challenging it is for MEC staff to compile that data accurately. By integrating data from Vital Statistics (cause and manner of death) and toxicology results would eliminate extra work for the districts and MEC staff by having a system that marries cause of death data in one database to the drugs found data in another database.

District 17 Medical Examiner Craig Mallak, M.D., raised concerns about the amount of space available on the death certificates to be able to list all of the drugs found in the bodies from toxicology. Mr. Jones said that there is a new program being developed for that as well and he would be correcting that issue.

With no other agenda items left to cover without MEC Chairman Dr. Nelson being present, the meeting went into recess at 10:48 A.M.

MEC Charmain Dr. Nelson called the meeting back to order at 10:59 A.M.

ELECTION OF CHAIRMAN

Ms. Vickie Koenig announced that the Chairman of the Commission is elected at the first meeting of the year, and opened the floor for nominations. Dr. Wolf nominated Dr. Nelson and Commissioner Carol Whitmore seconded the nomination. Commission member Robin Giddens Sheppard, L.F.D. motioned to close nominations and Sheriff Reid seconded that motion.

THE MOTION WAS PASSED UNANIMOUSLY TO ELECT STEPHEN J. NELSON, M.A., M.D., F.C.A.P., AS CHAIRMAN OF THE MEDICAL EXAMINERS COMMISSION FOR 2019.

DISCIPLINE AGENDA ISSUE NUMBER 1: DISTRICT 1 PROBABLE CAUSE PANEL REPORT

Probable Cause Panel Chair Dr. Wolf provided a summary of the Probable Cause Panel Report from November 14, 2018.

In May 2018, Okaloosa County Sheriff Larry Ashley and Walton County Sheriff Michael Adkinson filed formal complaints against District 1 Medical Examiner Andrea N. Minyard, M.D. The complaints allege that over the past few years several cases in their respective counties did not have an adequate death investigation performed as required pursuant to Chapter 406, F.S. The complaints further allege that Dr. Minyard was negligent in her duties as a medical examiner.

A Probable Cause Panel convened with Dr. Wolf as the elected chair. A number of cases that were submitted in the original complaint were reviewed. During that review, the panel found 12 cases of concern that reached the level of violation of Florida Statute, Florida Administrative Code, or the Practice Guidelines for Florida Medical Examiners.

Conclusions

The Panel found that there was probable cause for disciplinary action regarding the complaints lodged against Dr. Andrea Minyard. The Panel felt that there was a general lack of documentation of medical histories and records reviewed prior to making a determination. It was noted that the further from Escambia County a death occurred, the less likely it was that the District 1 Medical Examiner's Office would assume jurisdiction. There was also a general tendency to decline a case if the primary physician was willing to sign the death certificate even if circumstances surrounding the death or reports of drug/alcohol abuse indicated that the case should become a medical examiner's case. The Panel finds that all the cases identified in the report violated s. 406.075(1)(i), F.S., and Rule 11G-2.001(1)(b), F.A.C. Additional violations for subsections of Rule 11G-2.003, F.A.C., are noted for each of the cases.

The Panel recommends that Dr. Minyard be placed on a period of supervised probation for one year. The supervised probation would be under the direction of a medical examiner of Dr. Minyard's choosing as approved by the Commission. Dr. Minyard would be required to provide initially 100% of all jurisdiction declined and any case without an autopsy to the supervising medical examiner every two weeks. The supervising medical examiner would report his/her observations to the Commission at every quarterly meeting, and would determine a graduated reduction in case reviews based on his/her observations.

Dr. Nelson asked the members of the PC Panel if the 27 cases complained about were the only cases like this during Dr. Minyard's tenure or if there were possibly more cases that the complainants and PC Panel were not aware. Dr. Wolf responded that there is really no way to know, but it is possible. She would hope that the complainants would have submitted additional cases, if they had them. Dr. Nelson then asked if this was a progressive problem that grew over several years, or if this was just an issue that has only been going on for two to three years. Dr. Wolf responded that, again, there was no way of knowing for sure, but she thinks the problem is directly associated with the closing of the District 1 Satellite Office. She also said that the lack of documentation at the Medical Examiner's Office was disconcerting, and that the time Dr. Minyard did not have an Associate Medical Examiner also was a contributing factor to some of the issues being discussed.

Ms. Whitmore asked Dr. Nelson if the Commissioners must make their determination based on what was presented to and decided on by the Probable Cause Panel. Mr. Jim Martin responded by saying that if the panel finds that probable cause exists, they shall direct the Commission to file a formal

complaint and the Commission shall file a formal complaint pursuant to the provisions of Chapter 120 F.S. He then reiterated that the Probable Cause Panel is the finding body to determine probable cause as to whether a complaint should be filed.

MS. SHEPPARD MADE A MOTION, MR. JONES SECONDED, AND THE MOTION PASSED UNANIMOUSLY TO FILE AN ADMINISTRATIVE COMPLAINT THAT PROPOSES DR. MINYARD BE PLACED ON SUPERVISED PROBATION FOR A PERIOD OF ONE YEAR. THE PROBATION WILL BE UNDER THE DIRECTION OF A MEDICAL EXAMINER OF DR. MINYARD'S CHOOSING AS APPROVED BY THE COMMISSION. DURING PROBATION, DR. MINYARD WILL INITIALLY BE REQUIRED TO PROVIDE 100% OF ALL JURISDICTION DECLINED CASES AND ANY CASE WITHOUT AN AUTOPSY TO THE SUPERVISING MEDICAL EXAMINER EVERY TWO WEEKS. THE SUPERVISING MEDICAL EXAMINER WILL REPORT HIS/HER OBSERVATIONS TO THE COMMISSION AT EVERY QUARTERLY MEETING AND WILL DETERMINE A GRADUATED REDUCTION IN CASE REVIEWS BASED ON HIS/HER OBSERVATIONS.

Dr. Barbara Wolf, Mr. Wesley Heidt, and Sheriff Harrell Reid recused themselves as members of the probable cause panel.

DISCIPLINE AGENDA ISSUE NUMBER 2: DISTRICT 4 PROBABLE CAUSE PANEL REPORT

Probable Cause Panel Chair Dr. Wolf provided a summary of the Probable Cause Panel Report from July 13, 2018.

In April 2018, Ms. Angel King filed a formal complaint against District 4 Medical Examiner Valerie J. Rao, M.D. This was the third formal complaint filed by the complainant since the death of her daughter in 2009. The major complaint was that the death should not have been ruled a suicide. The complaint also alleged that the medical examiner's office violated Section 406.135, Florida Statutes, by releasing autopsy photos to someone who should not possess or see them.

A Probable Cause Panel convened with Dr. Wolf as the elected chair. After a thorough review of the case, the panel members found the above allegations to be not *legally sufficient*. However, the panel determined that Dr. Rao violated Rule 11G-2.006, Florida Administrative Code, and Article 14(1)(c) of the Practice Guidelines for Florida Medical Examiners by failing to describe the decedent's clothing in detail sufficient to correlate with wounds and provide evidence for identification when necessary.

Conclusions

The Panel found that there was probable cause for disciplinary action regarding the complaint lodged against Dr. Rao. The panel felt that neglecting to describe the clothing in a manner consistent with Practice Guidelines Article 14(1)(c), was a direct violation of Practice Guidelines and Rule 11G-2.006, F.A.C.

The Panel recommends an oral reprimand as disciplinary action.

Dr. Nelson said that his read of the guideline is that clothing descriptions are not mandatory with regards to bullet wounds. He specifically mentioned that the Article uses the words "should" and "when necessary", and questioned who determines when the description is necessary. He said that he finds it troubling that the Commission is going to "wordsmith" things like "should" and "shall" with regards to cases like this.

Dr. Wolf disagreed with Dr. Nelson because the death was suspicious and, in her opinion, most medical examiners would have described the holes in the clothing along with the bullet wound.

Dr. Nelson asked if there was any mention of a bullet hole in the shirt, splayed fibers, or stippling anywhere in the report. He was informed by Dr. Wolf and Ms. Koenig that there were not any of those kinds of descriptions anywhere in the report other than the basic colors and type of clothing the decedent was wearing.

Dr. Nelson once again mentioned that the guideline article uses the word “should” instead of “shall” when describing clothing. Mr. Martin said that there is a distinction between “may” and “should” and “shall”, and that may is the more discretionary option between the two, whereas “should” implies that, in his opinion, something *should be done*, and “shall” essentially commands one to do something with no discretion.

Dr. Wolf referred back to Chapter 406.075(1)(i) F.S. and the wording “actions that are reasonable and that a prudent medical examiner would take” and how it related to this case. She felt that a more detailed clothing description in a suspicious case like this is essentially standard practice.

Mr. Siegmeister mentioned that the article says “should, when necessary”, which is a second qualifier, then asked how many times this case has been reviewed. Ms. Koenig informed Mr. Siegmeister that this was the third time this case has been reviewed by the Medical Examiners Commission.

Dr. Nelson then commented that it was also troublesome that this violation wasn’t found until now, the third time this case was reviewed, and he further reiterated that he is troubled by describing bullet holes in clothing on things that, for all intents and purposes, are pretty straightforward. However, homicides would be different.

Mr. Martin then read Article 14(1)(c), Practice Guidelines, for the Commission. *Clothing should be described in detail sufficient to correlate with wounds and provide evidence for identification when necessary.*

There was further discussion from Dr. Nelson about describing clothing in these situations and the Medical Examiners Commission only finding an issue with it on the third time this case was reviewed. Dr. Wolf commented that the lack of clothing description was one of complainant’s biggest issues for this specific third complaint. After reviewing the case under that light, the PC Panel felt it was an appropriate complaint under the circumstances of the case.

Dr. Nelson then asked if anyone in the audience had any comments about the issue. District 12 Medical Examiner Russell S. Vega, M.D. asked if it was clear from the nature of the wound by itself what the range of fire was. Dr. Wolf responded, “No.” Dr. Vega then said that, for most suicides, he wouldn’t describe the holes (in the clothing) clearly unless he saw something which made him think the range of fire was different than other criteria he was looking at, in which case it was impactful to primary opinions of the case.

Mr. Martin then asked Dr. Nelson what he would do if a body came in with bullet holes, but was wearing a shirt without bullet holes. Dr. Nelson responded by saying he would describe that in the autopsy report.

Mr. Wesley Heidt, J.D. commented that between the first two reviews, there was an independent expert that reviewed the case, and there were allegations of the decedent being undressed, dressed,

and sexually assaulted. He further stated that it wasn't just that the clothes weren't catalogued; it's that there were pieces of the story that would potentially make the descriptions necessary.

Dr. Wolf asked Dr. Nelson what was the intent of the clothing description article in the Practice Guidelines. Dr. Nelson responded by saying that he could see how it would be important in some instances. He was mostly bothered with the word "should" because he couldn't see his office having to catalogue all clothing descriptions for individuals who are killed in motor vehicle crashes, hangings, or natural deaths that have nothing to do with the cause of death. Dr. Wolf responded that no one is suggesting that the medical examiners should do that, but the panel was looking at a very specific instance in this case.

District 2 Associate Medical Examiner Lisa Flannagan, M.D. asked if the defect in the shirt was photographed. Ms. Koenig responded by saying that the shirt was shown in various photographs on the autopsy table, but never with measurement markers beside it to her recollection.

Dr. Nelson stated that the Commission's job was not to wordsmith, but instead was to put forth a motion to accept or not accept the Probable Cause Panel's findings as well as the recommended disciplinary actions. He then asked if anyone wanted to make a motion. **Sheriff J. Harrell Reid made a motion to approve**, but Ms. Koenig pointed out that Ms. Carol Whitmore also had a question to ask.

Ms. Whitmore asked if this is the same case that had some complaints about Dr. Rao before and, if it was, wanted to know why the clothing issue wasn't picked up before. She also commented that the family may be looking for something to hang this on.

Dr. Nelson then said that this case has had multiple complaints in the past, but had never made it to a Probable Cause Panel. A Probable Cause Panel was established so extra eyes could look over the case to see if anything was being missed. Only then was this potential violation found.

Sheriff Reid made a motion to approve the findings of the PC Panel and to issue a formal administrative complaint with the Panel's recommended disciplinary action. There were no seconds. The motion died.

Ms. Whitmore made a motion to deny the recommendations of the PC Panel. Mr. Martin then reiterated that the Commission *shall* file an administrative complaint, per Florida Statutes.

Sheriff Reid made a motion to accept the findings of the PC Panel without the recommended disciplinary action. Ms. Whitmore seconded the motion.

The members of the Commission then engaged in a lengthy discussion on what they were allowed to do as far as issuing a formal administrative complaint and recommended disciplinary actions. Many motions were made and subsequently died. Mr. Martin made a suggestion that the Commission members issue a formal administrative complaint as required by Florida Statute, but issue it without a recommended disciplinary action.

MS. SHEPPARD MADE A MOTION TO ISSUE A FORMAL ADMINISTRATIVE COMPLAINT WITH NO DISCIPLINE RECOMMENDED AND SHERIFF REID SECONDED. THE MOTION PASSED UNANIMOUSLY THAT THE FINIDINGS OF THE PROBABLE CAUSE PANEL BE ISSUED IN A FORMAL COMPLAINT WITH NO RECOMMENDATION FOR DISCIPLINEARY ACTION AGAINST DR. RAO.

Dr. Barbara Wolf, Mr. Ken Jones, and Mr. Wesley Heidt recused themselves as members of the probable cause panel.

This concluded the disciplinary agenda

ISSUE NUMBER 1: INFORMATIONAL ITEMS (PART 3)

- Status Report: District 4: Dr. Nelson informed the Commission that District 4 has constituted a District Medical Examiner Search Committee, chaired by State Attorney Melissa Nelson that is tasked with filling the District Medical Examiner vacancy in that district. He has attended multiple meetings with the Search Committee, and they are currently in the process of soliciting applicants for the position, but have not had a face-to-face meeting or a meeting to interview applicants this year.
- Status Report: District 7: Dr. Nelson informed the Commission that District 7 also has a Search Committee in place to fill the District Medical Examiner vacancy in Volusia County. There are approximately 18 applicants interested in the position, and interviews will begin either at the end of January or the beginning of February.
- Pregnancy Associated Mortality Review (PAMR) Follow-up: Dr. Nelson reported to the Commission that in 2016 8% of maternal death certificates selected for PAMR were referred to the medical examiner, but no autopsy was performed. He also reported that in 2017 that number had risen to 9.2%. But without further information from PAMR, it is difficult to assist them with reversing that trend.
- Deceased Fingerprint Card Processing: Ms. Koenig reported that the supervisor for FDLE's fingerprint section was vacant and the districts they may be receiving queries for fingerprint card from different people than they have in the past. Dr. Nelson instructed the districts to continue sending deceased fingerprint cards to FDLE.

ISSUE NUMBER 2: DISTRICT 1 REAPPOINTMENT

Dr. Nelson reminded the Commission that the reappointment for District 1 was tabled in May because of issues raised by constituents of the district, including three of the four sheriffs and the Okaloosa County Board of County Commissioners. The Commission asked for additional information from the sheriffs' offices about the cases where jurisdiction was declined by the medical examiner's office, since they were the principle cause of the complaint, and a Probable Cause Panel was created to examine the allegations of the complaint. Dr. Nelson then opened the floor for comments by members of the public and constituents of District 1 regarding the reappointment of Dr. Minyard.

Okaloosa County Sheriff Larry Ashley thanked the Commission for the work they had done so far and for hearing their complaint. He discussed his disappointment with the Probable Cause Panel's finding never mentioning the financial and contractual obligations of Dr. Minyard to the four counties in her district, the fact that she has filed a lawsuit against the counties stemming from the allegations, or that the counties have subsequently filed countersuits against Dr. Minyard in order to receive fees that were collected by the medical examiner's office and were believed to have been misappropriated. He stated that it was his recommendation and that of his office that Dr. Minyard not be reappointed as the District 1 Medical Examiner as this is an issue that will not go away and cannot be reconciled with probation by a doctor of her own choosing.

Dr. Wolf responded by saying that while the Medical Examiners Commission is the place to voice all of his concerns, the probable cause panel only specifically looks for violations of Chapter 406, F.S., Chapter 11G, F.A.C., and the Practice Guidelines for Florida Medical Examiners. Sheriff Ashley thanked her for the clarification.

Walton County Sheriff Michael Adkinson addressed the Commission stating that at the end of the day, this is a customer service business, and that the customers in the district are so dissatisfied with the service that they are engaged in litigation back and forth. He stated that it is his obligation to the citizens of his county to make sure that they receive the highest level of service, and has never had to work so hard to terminate a service that was being provided to him. He did not want to comment on Dr. Minyard's competency as a medical doctor as he felt like that was not his place. He stated that if the customers do not want her services any longer and she is suing her constituents in court, then there is no way she should be able to pocket any more of the tax payer's money.

The First Judicial Circuit's Chief Assistant State Attorney, Greg Marcille, commented that the State Attorney's Office is aware of the concerns that the sheriffs have raised about Dr. Minyard's reappointment. However, his office believes that Dr. Minyard has been a very competent medical examiner for the district and works very well with the State Attorney's Office as a witness in cases. His office has been satisfied with her performance and recommended that she be reappointed as the District 1 Medical Examiner. He also commented that he is aware of the financial aspects of the complaint as well as the ongoing back and forth litigation between the counties and Dr. Minyard in an attempt to come to some final financial agreement. He suggested that it may be appropriate to table the reappointment again until the financial issues can possibly be resolved. He also stated that his office was concerned with the disruption to the criminal justice system that would be caused if Dr. Minyard was not reappointed because of the long, drawn out Search Committee process required for selecting and appointing a new medical examiner. If a reappointment was not made, he hoped an adequate solution could be obtained that would provide the necessary services to the district and the State Attorney's Office.

Mr. Heidt asked if the lawsuits were for resolution of past concerns or if they were for a present and future working resolution. Mr. Marcille stated that he was not the appropriate person to answer that question because it is civil law and his office is not involved in that litigation. He then offered up his understanding of the situation and the information he knew about the lawsuits with the caveat that he has not been involved with the cases or read any of the paperwork for them. Dr. Nelson asked if there has been a hearing on any of these cases.

Mr. Marcille said that there have been various hearings and he doesn't know the outcomes. The counties' counter-claims lawsuit is proceeding and has not been disposed of at this point.

Dr. Nelson asked if there was a trial date set. He mentioned that Mr. Marcille commented that this process should possibly be tabled again, but he was concerned that the lawsuits were not close to being resolved and would take a lot of time to do so.

Ms. Whitmore commented that she looked over the reappointment paperwork and there were quite a few recommendations for reappointment and only a few ballots returned that recommended not reappointing Dr. Minyard. She further stated that she believed the Commission's role was to decide if there was a qualified, competent physician that can be recommended for reappointment and that the fiscal issues should be worked out amongst the counties.

Dr. Minyard provided comments regarding the services provided in Okaloosa and Walton Counties. She said that the reason why more cases are being declined jurisdiction by the Medical Examiner's Office in Walton and Okaloosa Counties is because those counties are reporting more deaths to the medical examiner than Santa Rosa and Escambia Counties. In 2017, Okaloosa County reported 69% of total deaths to the medical examiner and Walton County reported 77%. In contrast, Santa Rosa and Escambia hover around 23%, which is consistent with other districts across the state. Of all the cases reported to the Medical Examiner's Office, they accept jurisdiction on about 11% of them, which is consistent across all counties in the district. In comparison, District 10 accepts 10.7% and District 5 accepts 11.2% of all deaths reported to their respective offices.

Ms. Whitmore made a motion to recommend Dr. Minyard for reappointment; however there was no second. The motion died.

Mr. Cofer made a motion that Dr. Minyard NOT be recommended for reappointment and Sheriff Reid seconded the motion.

Ms. Whitmore asked for a discussion and Dr. Nelson granted that request. Ms. Whitmore said that if a motion is going to be passed to not recommend Dr. Minyard for reappointment, then a reason why should be given. Ms. Whitmore stated that, in her opinion, by Statute, a decision to not reappoint should not be based on a financial complaint from constituents of the district.

Dr. Nelson pointed out that the situation was more complicated than a financial dispute. The administrative complaint addressed cases where jurisdiction was not accepted when the sheriffs' offices believed they should have been medical examiner cases.

Dr. Wolf commented that she didn't know how the relationships between Dr. Minyard and her constituents can be worked out even if new financial contracts can be agreed upon. In her opinion, there would still be some contention moving forward.

Ms. Sheppard stated that, to her, there seems to just be a total lack of confidence in Dr. Minyard from her constituents, and that there really needs to be a Medical Examiner's Office in the geographic middle of the district to address the needs of eastern Okaloosa and Walton Counties.

Dr. Nelson then asked if the center of the district was the population center, and Dr. Minyard confirmed that it was not. Escambia County is the population center.

Mr. Siegmeister stated that if a search was opened up for a new district medical examiner, they will find that there are around 2,000 openings for Board-certified forensic pathologists nationwide. It may be that Dr. Minyard is the most qualified candidate that's available, but at this point it's not an effective relationship.

Mr. Jones said that if all the suggestions of the probable cause panel are followed, it might fix the issues with the cases being declined. However, he doesn't think that the relationship between Dr. Minyard and her constituents can be repaired.

Dr. Nelson asked Sheriff Ashley and Sheriff Adkinson if their opinion about the reappointment of Dr. Minyard would change if there was an office on their side of the district.

Sheriff Ashley said that would certainly improve the services provided, but his trust in Dr. Minyard is lost. Sheriff Adkinson mentioned that at one point Okaloosa County even offered to help fund a new Medical Examiner's Office in Crestview and that the offer still stands. He also said that the Santa

Rosa County Board of County Commissioners were also opposed to Dr. Minyard's reappointment and were concerned about finding a replacement, but were certain one could be found.

Dr. Nelson asked if there had been any discussions between the interested parties in brokering some type of mediation.

Sheriff Ashley said that all professional relationships remain between the Sheriff's Office staff and the medical examiner investigators. Dr. Minyard had reached out to him, but he will not speak with her because of ongoing litigations since he is a representative of the county and its citizens. He also said that there is no doubt in his mind that there has been a misappropriation of funds by Dr. Minyard and her medical practice as medical examiner.

Judge Cofer said that when it comes to a relationship between law enforcement and the Medical Examiner's Office, it's a red light when law enforcement is seeking the services of the Medical Examiner in particular cases and those cases are declined. When law enforcement is asking for those services, it is a suspicious death. He stated that whatever the counties end up doing with budgeting is up to the counties, but when you see a Medical Examiner's Office struggling to provide necessary services as well as some of the other things he has seen in the paperwork provided to him, it raises concern not only for her ability to conduct autopsies, but also her administrative capabilities. He provided an example of where, during her struggles in her own district, she began providing services in another district for additional compensation. He also mentioned her being subject to various ethics laws of the state, and then employing her own family members, which also raises concerns about administrative capabilities. In his review of the reports and comments he had read, the relationship is broken, and he could not support her reappointment.

WITH NO FURTHER DISCUSSION, A VOTE WAS HELD ON THE MOTION TO NOT RECOMMEND DR. MINYARD FOR REAPPOINTMENT AS DISTRICT 1 MEDICAL EXAMINER. THE VOTE PASSED WITH ONLY ONE NAY VOTE FROM MS. WHITMORE.

As a result of the vote, a vacancy was created and the State Attorney needs to appoint an interim district medical examiner, pursuant to F.S. §406.15. Dr. Minyard could remain the Interim District Medical Examiner (if that is the pleasure of the counties and the State Attorney) while a Search Committee is convened to select a replacement District Medical Examiner.

The meeting went into a brief recess at 12:24 P.M.

Dr. Nelson called the meeting back to order at 12:37 P.M.

ISSUE NUMBER 3: ORGAN PROCUREMENT ORGANIZATION ANNUAL REPORT 2018

Ms. Ginny McBride of TransLife presented the 2018 Annual Report for Florida's organ procurement organizations. Ms. McBride reported that there was one transplant denial reported last year. The denial was for one organ (heart) and not a denial of every organ from the donor. The donor had received an intramuscular injection of ketamine and subsequently suffered cardiac arrest for a prolonged period of time. In addition, the donor had a history of intrinsic cardiac disease. Because of these two factors, the heart was not transplantable and she would not consider it a denial. Ms. McBride stated that she would reach out to her colleagues to see why it was reported as a denial and thanked the medical examiners for the outstanding relationship they have with the organ procurement organizations in Florida.

ISSUE NUMBER 4: DEPARTMENT OF HEALTH OPIOID PROJECT

Karen Card, DrPH, with the Department of Health (DOH), appeared before the Commission to share that, with the first 6 months of abstracted fatality data, they had produced their first general purpose report on fatal opioid overdoses. The report was in draft form because it could not be approved and finalized until a new Surgeon General was appointed. However, it will be available to the public and posted online once it is approved. Invitations to participate in this project have been sent to all District Medical Examiners with the exception of any district that explicitly requested no further contact and District 4 where the alternative views proposal spending mechanism is still being examined. She advised that she switched to using the Drugs in Deceased Persons Report at the advice of several medical examiners as it has greater confidence within that community.

Dr. Card reported that because of carryover of unspent funds, they have additional support funding that must be spent by August 31, 2019. A sub grant has been issued to the University of Florida for a time-of-flight mass spectrometer with hopes that it will benefit a substantial amount of districts, and the contract is currently being finalized. Also, \$400,000 has been reserved for the purpose of the medical examiner community. Districts wanting take advantage of funding to will improve or speed up the comprehensive toxicology testing related to drug overdoses either by the same mechanism or an alternative proposal are encouraged to contact the Department of Health with their ideas.

Mr. Jones once again mentioned the new case management system that will be linked with the Department of Health that he discussed during the Mortality Data Exchange section of the agenda. He believed that some of the money could be allocated toward programming and development of that new system.

Dr. Nelson asked if the money had to be expended by August 31, 2019. Dr. Card then clarified her statement by saying the funds had to be obligated by August 31, 2019 and expended within 90 days after that date. She stated that the funds can be used on equipment that is either enduring or consumable and does not have to be dedicated to toxicology testing, but is dedicated to the resources of the medical examiners themselves. She also said that, if an appropriate allocation method was approved, the funds could be distributed evenly throughout the districts.

ISSUE NUMBER 7: MASS FATALITY PLANS

Dr. Nelson reminded all districts that hurricane season begins on June 1, 2019, and that everyone should make sure they have a current up-to-date mass fatality plan in place.

ISSUE NUMBER 9: EMERGING DRUGS

Bruce Goldberger, Ph.D., provided the Commission with an update on new drug trends. There seems to be a clear shift away from fentanyl analogs in Florida decedents, but Fentanyl still seems to be prevalent. Dr. Goldberger also believes that the next wave of drugs will be cocaine and methamphetamines. Dr. Wolf commented that her region has not seen a decrease in fentanyl analogs as of yet. While the incidence of fentanyl analogs has diminished, fentanyl, methoxyacetylfentanyl, acetylfentanyl, and fentanyl mixed with heroin are still appearing in reports. Dr. Goldberger also noted a rise of N-ethylpentylone, a cathinone, in violent deaths.

Dr. Goldberger also reported that the Florida drug-Related Outcomes Surveillance and Tracking System (FROST) has been updated. The recent drug report has been posted to FROST and is current through 2017. Enhancements are being made to the system by adding other drugs and also linking it to other drug reports from around the state and nation. Many queries are starting to come from the federal government and state agencies that are asking for the specific location the injury occurred, occupation, marital status, etc., so more demographic fields may need to be added to the FDLE Drug Report.

ISSUE NUMBER 10: 2019 FAME EDUCATIONAL CONFERENCE

Dr. Goldberger reported that the 2019 FAME Educational Conference will be held July 10-12, 2019, at the Eau Palm Beach Resort and Spa in Manalapan, Florida with a \$185 per night rate. The conference will be co-hosted by the District 15 Medical Examiner's Office along with the University of Florida and the Maples Center. The preliminary agenda should be available in about a month.

ISSUE NUMBER 11: OTHER BUSINESS

Dr. Nelson announced that he had signed resolutions for the Honorable James Purdy J.D. and retired MEC Staff member Doug Culbertson.

Ms. Koenig reminded everyone that the next Medical Examiners Commission meeting will be sometime between April 30 and May 3 and will possibly be in Gainesville.

With no further business to come before the Commission, the meeting was adjourned at 1:22 P.M.