

MEDICAL EXAMINERS COMMISSION MEETING

Hilton University of Florida Conference Center
1714 SW 34th Street
Gainesville, Florida 32607
May 1, 2019 10:00 AM EDT

Commission Chairman Stephen J. Nelson, M.A., M.D., F.C.A.P. called the meeting of the Medical Examiners Commission to order at **10:03 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., 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. J. Harrell Reid, Hamilton County Sheriff
Hon. Carol R. Whitmore, R.N., Manatee County Commissioner (via Teleconference)

Commission members not present:

Hon. Jeffrey A. Siegmeister, J.D., State Attorney, 3rd Judicial Circuit

Commission staff present:

Vickie Koenig
Megan Neel
Chad Lucas
James D. Martin, J.D.

District Medical Examiners present:

Kelly G. Devers, M.D. (District 13)
Jon R. Thogmartin, M.D. (District 6 & Interim 7)
Michael D. Bell, M.D. (District 15)
William F. Hamilton, M.D. (District 8)

Other District personnel present:

Jeff Martin (District 1)
Lindsey Bayer (District 5/24)
Whit Majors (District 14)
Cathy Weldon (District 8)
Rebecca MacDougall, M.D. (District 17)
Tim Gallagher, M.D. (District 1)
Jeffrey J. Brokaw (District 4)
Deanna A. Oleske, M.D. (District 23)
Paula McCole (District 8)
Wendy A. Stroh, D.O. (District 8)

Guests present:

Karen Card, DrPH (DOH)
Brendie Hawkins (FDLE)
Bruce Goldberger, Ph.D. (UF)
Keshia Reid, PhD (DOH)
DiAnn McCormack (CorneaGen)
Rebekka McCollom (Lion's Eye Institute)
Larry Cochran (LifeQuest)
Paula Kratt (UMTTB/VIVEX)
Susan Rabel (LifeLink)
Beth McNeil (FDLE)
Jonathan Rigsby (FDLE)
Melissa Jordan (DOH)
Gary Sammet (DOH)
Farzana Juman (CorneaGen)
Karin Frosio (LifeNet Health)
Jonathan Bethard, Ph.D. (USF)
Rebecca Sayer (LifeLink)
Meagan Wisniewski (UF Toxicology)

Chris Chronister (UF Toxicology)
Alex Gillette (UF Toxicology)
Sara Brogan (UF Toxicology)

Michelle Cataldo (UF Toxicology)
Jessica Hrozdovich (UF Toxicology)
Amy Kinsey (UF Toxicology)

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 JANUARY 18, 2019 MEDICAL EXAMINERS COMMISSION MEETING.

DISCIPLINE AGENDA: DISTRICT 4 INTERIM MEDICAL EXAMINER VALERIE J. RAO, M.D.

FDLE Assistant General Counsel Chris Bufano, J.D., presented an overview of the status of the Commission's administrative complaint against District 4 Interim Medical Examiner Valerie J. Rao, M.D. This case is before the Commission upon the administrative complaint that charges the respondent with violating Article 14(1)(c) of the Practice Guidelines for Florida Medical Examiners and Rule 11G-2.006, F.A.C., in District 4 case # 09-1714. The respondent in this case failed to return an Election of Rights form or respond to the administrative complaint within 21 days of receipt. The administrative complaint was served on March 27, 2019. By failing to respond or request a formal hearing within 21 days of receipt, the respondent has waived her right to a hearing, and the matter is now in default. The probable cause panel in this case recommended an oral reprimand. The matter is before the Commission for any disciplinary action deemed appropriate.

Dr. Nelson addressed the Commission by saying it was his preference that this be dismissed on the basis that he has trouble with the issue of describing clothing for cases that may or may not be necessary.

MS. WHITMORE MADE A MOTION TO DISMISS THE ADMINISTRATIVE COMPLAINT AGAINST VALERIE J. RAO, M.D. AND MS. SHEPPARD SECONDED. THE MOTION PASSED UNANIMOUSLY THAT THE ADMINISTRATIVE COMPLAINT AGAINST DR. RAO BE DISMISSED.

Mr. Jones, Mr. Heidt, and Dr. Wolf did not participate in the vote as members of the probable cause panel for this case.

ISSUE NUMBER 1: INFORMATIONAL ITEMS

- District 1 Disciplinary Update: Ms. Vickie Koenig informed the Commission that the administrative complaint against Dr. Minyard was served on March 25, 2019, and received by Dr. Minyard on March 26th. Dr. Minyard has opted for a formal hearing and, at this time, it has been referred to the Division Administrative Hearings. The case has been assigned to an administrative law judge in Pensacola and we are expecting hearing date will be set in the coming days.
- District 16 Appointment and District 18 Reappointment Updates: Ms. Koenig informed the Commission that the Governor's Appointments Office has received everything they need for both districts and will process each application so that the appropriate appointments and reappointments can be made. The appointment process has changed and the electronic application has been improved to a more user friendly downloadable .pdf document.

- **Status Update: DME and State Attorney MEC Vacancies:** Ms. Koenig reported that Dr. Wolf's and Mr. Siegmeister's seats are up for reappointment this year and both have indicated that they would like to serve a second term. MEC staff has received recommendation letters from the Florida Association of Medical Examiners as well as the Florida Prosecuting Attorneys Association. Both MEC members have also submitted their gubernatorial appointment forms online and when staff returns, FDLE Commissioner Swearingen will draft a letter of recommendation for reappointment for both Commission members.

- **District 1 Search Committee Update:** Dr. Nelson informed the Commission that he has spoken with the State Attorney in District 1 and that he has assembled a search committee for a new district medical examiner in District 1, but that committee has not met yet. There is ongoing litigation between Dr. Minyard and the counties that has not been completely resolved. Dr. Nelson believes that until that litigation is completed, it is doubtful that anyone would apply for the position of District 1 Medical Examiner.

Ms. Whitmore asked if there is anyone actually performing the duties of the district medical examiner. Dr. Nelson confirmed that Dr. Minyard is performing those duties as the Interim District Medical Examiner.

- **District 7 Search Committee Update:** Dr. Nelson informed the Commission that on Friday, March 29, 2019, the District 7 Search Committee selected James W. Fulcher, M.D. from South Carolina as the new District 7 Medical Examiner. Dr. Thogmartin advised that Dr. Fulcher will be replacing him as the new medical examiner on July 6, 2019. Dr. Nelson thanked Dr. Thogmartin for stepping in as District 7 Interim Medical Examiner and for being a tremendous resource for Florida and the Medical Examiners Commission.

- **District 15 Medical Examiner Update:** Dr. Nelson informed the Commission that District 15 appoints their medical examiner via Home Rule authority, and that they have four people to interview for the position of District Medical Examiner. District 15 Medical Examiner Michael D. Bell, M.D. confirmed that interviews are scheduled for May 9-10, and they will have a decision immediately following the interviews.

- **Organ Procurement Organization Denial Update:** Dr. Nelson informed the Commission that Ginny McBride from TransLife provided an update for the one transplant denial that she reported at the January Commission Meeting. After further review, the organ was not suitable for transplant, and is not considered a transplant denial.

- **Pregnancy-Associated Mortality Review Follow-Up:** Dr. Nelson informed the Commission that the Florida Department of Health, Pregnancy-Associated Mortality Review has asked for help to receive grant funding from the Center for Disease Control and the Medical Examiners Commission has issued a letter of support for that grant.

- **2018 Interim Drugs in Deceased Persons Report:** Ms. Koenig reported that the quality review checks for 2018 Interim Drugs in Deceased Persons Report were being finalized. There is one district awaiting return from the Quality Assurance Committee, and two districts that have been returned for corrections. She is hoping MEC staff will be able to crunch the numbers more in-depth in the next week or two.

- 2018 Coverdell Status Update: Mr. Lucas reported to the Commission that the 2018 Coverdell Grant funds were released by the National Institute of Justice on March 11, 2019. The Memoranda of Understanding (MOUs) for the 2018 grant were e-mailed to the participating districts by the grant manager that same week. In anticipation of the funds being released, Mr. Lucas e-mailed award packages to the participating districts on March 6, 2019. Physical copies of the MOUs were mailed to the participating districts by the grant manager the week of March 25, 2019. Once signed MOUs are received by the grant manager, districts may begin to spend money on items on their 2018 expenditure list. Mr. Lucas advised that budget amendments are taking up to one month for federal approval, and to please be mindful of the grant timeline when submitting budget amendments or reimbursement requests.
- 2018 Annual Reports Reminder: Ms. Koenig informed the Commission that 2018 Annual Reports are due June 30, 2019 and encouraged districts to submit their data as soon as it is complete or June 30th, whichever date comes first. It is preferred that the Annual Workload Report data not have pending cases in it, but if June 30th comes and there are still pending cases, please submit the data to MEC staff.
- 2019 Legislative Session Bills of Interest: Mr. Jim Martin informed the Commission that there were four bills of interest to the medical examiner community being discussed in this year's legislative session. The two bills expected to pass were the following:

Public Records: Photographs or Video or Audio Recordings that Depict or Record the Killing of Victims of Mass Violence (HB 7017 Oversight Committee / SB 186 Lee) – These bills amend s. 406.136, F.S., to include in the exemption from public records requirements for photograph, video, or audio recordings held by an agency that depicts or records the killing of a law enforcement officer, and photographs, video, or audio recordings held by an agency that depicts or records killing or a victim of mass violence. This exemption is relocated from s. 406.136, F.S. to s. 119.071(2)(p), F.S., and is given retroactive status. *(NOTE: SB 186 passed, and was signed by Governor DeSantis to become Chapter 2019-046, Laws of Florida.)*

Elder Protection / Elder Abuse Fatality Review Teams (HB 583 Watson / SB 452 Gibson) – These bills authorize the establishment of elder abuse fatality review teams to review abuse related deaths. Review teams may be established in each judicial circuit and are composed of volunteers who serve 2-year terms without compensation. A medical examiner is among those listed as possible members of the review team. The review teams are assigned to the Department of Elder Affairs for administrative purposes. *(NOTE: These bills did not pass.)*

The two bills not expected to pass were as follows:

Public Meetings (HB 265 Newton / SB 518 Rader) – These bills apply 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 3 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 3 minutes. Time may be extended by the chair or restricted to 1 minute per person when more than 20 individuals request to address on agenda item. A response is required to any question posed to the board or commission either at the meeting or through written correspondence within 10 days after the meeting. Written responses must be incorporated into the minutes of the meeting. *(NOTE: These bills did not pass.)*

Public Records (HB 1201 Jacobs) – This bill adds autopsy reports and related written records that personally identify the deceased to materials that are to be exempt and confidential from public record until 10-days after the medical examiner has completed the report. This exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2024 unless reviewed and reenacted by the Legislature. This exemption has retroactive application. Additionally, this bill adds legal guardian and siblings to the succession list of individuals who are authorized to view copy or listen to the materials exempted in this section of statute. *(NOTE: This bill did not pass.)*

ISSUE NUMBER 2: NOMINATION FOR DISTRICT 4 MEDICAL EXAMINER

Dr. Nelson informed the Commission that the District 4 Medical Examiner Search Committee met in early April and forwarded Boguslaw Robert Pietak, M.D., of Missouri to the Medical Examiners Commission for consideration for the position of District 4 Medical Examiner. Dr. Pietak does not currently possess a Florida medical license.

MS. WHITMORE MADE A MOTION TO APPROVE THE NOMINATION OF DR. BOGUSLAW ROBERT PIETAK AS THE DISTRICT 4 MEDICAL EXAMINER UPON THE CONDITION OF HIM RECEIVING A FLORIDA MEDICAL LICENSE AND DR. WOLF SECONDED. THE MOTION PASSED UNANIMOUSLY THAT DR. BOGUSLAW ROBERT PIETAK BE NOMINATED AS THE DISTRICT 4 MEDICAL EXAMINER ONCE HE OBTAINS A FLORIDA MEDICAL LICENSE.

ISSUE NUMBER 3: REAPPOINTMENT NOMINATIONS FOR DISTRICTS 8, 10, 12, AND 14, AND ASSESSMENTS FOR DISTRICTS 9, 11, 13, AND 25

The Commission reviewed the constituent surveys for the reappointments of district medical examiners in District 8 (Alachua, Baker, Bradford, Gilchrist, Levy, and Union counties), District 10 (Hardee, Highlands, and Polk counties), District 12 (DeSoto, Manatee, and Sarasota counties), and District 14 (Bay, Calhoun, Gulf, Holmes, Jackson, and Washington counties).

The Commission also reviewed the survey assessments for District 3 (Dixie County), District 9 (Orange County), District 11 (Miami-Dade County), District 13 (Hillsborough County), and District 25 (Osceola County). District 3 (Dixie County) receives medical examiners services through contractual agreement with District 8. Districts 9, 11, 13, and 25 are home rule districts.

With the constituents overwhelmingly responding with approval for the district medical examiners in districts 8, 10, 12, and 14, the Commission held a lump vote for the districts up for reappointment. Dr. Nelson recused himself from the vote for District 10 medical examiner.

WITH NO FURTHER DISCUSSION, MR. COFER MADE A MOTION TO APPROVE THE REAPPOINTMENTS OF INCUMBENT MEDICAL EXAMINERS IN DISTRICT 8, 10, 12, AND 14 AND DR. WOLF SECONDED. THE MOTION PASSED UNANIMOUSLY THAT THE REAPPOINTMENT RECOMMENDATIONS OF DISTRICT 8, 10, 12, AND 14 MEDICAL EXAMINERS BE FORWARDED TO THE GOVERNOR'S APPOINTMENTS OFFICE.

Dr. Nelson recused himself from the vote for District 10. No other names were submitted for consideration in any of the districts.

ISSUE NUMBER 4: MARSY'S LAW IMPLEMENTATION

Mr. Martin provided the Commission with an overview of Marsy's Law. Essentially, Marsy's Law was Amendment 6 on the November 2018 general election ballot that passed. It amended Article 1, Section 16 of the Florida Constitution and enacted changes to expand victim's rights in Florida. Specifically, it gives a victim of crime the right to prevent the disclosure of information or records that could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information about the victim

There is some confusion about whether law enforcement agencies should unilaterally protect the victim's information or if the victim is required to assert their right to protect that information. Senator Lauren Book filed an implementing bill (SB 1426) this session to ensure the consistent and uniform application of the rights afforded crime victims under the state constitution, but the bill did not move forward during the legislative session. A legal opinion issued to Senator Book by Barry Richard, who is a constitutional attorney with Greenberg Traurig, and counsel for Marsy's Law of Florida, stated that "custodians of records made confidential by the victims' rights provision have a duty to maintain procedures designed to avoid disclosure of such information, including the victim's name in most instances, to unauthorized persons." Several other law enforcement agencies have also issued legal opinions addressing the provisions of Marsy's Law.

Mr. Martin said that the best advice he could give to medical examiners and the Commission is to err on the side of caution when dealing with victim's personal information and that they may need to seek legal counsel with their county attorney or private counsel that represents their office. Mr. Martin went on to say that until clarification is obtained, we are left with the language of the constitution and trying to interpret it without statutory guidance. He also noted that there has been no Attorney General opinion on the issue and in the 2019 Public Records Guide to Law Enforcement Agencies, only a simple reference to the amendment is made.

ISSUE NUMBER 5: 2019 COVERDELL AWARDS

Mr. Lucas informed the Commission that solicitation for proposals for the 2019 Coverdell grant was emailed to the districts on January 3, 2019 with a deadline for completed proposals of January 18, 2019. Eighteen districts returned proposals totaling \$55,206.81 in requested grant funds. On April 11, 2019 Mr. Lucas was notified by the grant manager that the Medical Examiner allotment for the 2019 grant would be \$45,262. Split evenly between the 18 participating districts, each district would be eligible to receive an average of \$2,514.55.

ISSUE NUMBER 6: DEPARTMENT OF HEALTH OPIOID PROJECT

Karen Card, DrPH, with the Department of Health (DOH), appeared before the Commission to introduce a new opioid use dashboard which appears on Florida Health CHARTS under "injuries" on the left-hand column. This dashboard uses FL-ESOOS estimates as well as other surveys and estimates by the department. The department has identified opioid use and mental illness as priority in public health issues and will continue to work with stakeholders throughout the state to address this crisis. As a program update, they sent a record requests for the third fatal overdose surveillance period and anticipate completion of the abstraction in August.

The project epidemiologist took a position outside the department. They are currently in the process of hiring a top candidate from out of state, who should start in May. The outgoing project epidemiologist submitted two abstracts that will be presented at the Council for State and Territorial Epidemiologists Annual Conference next month. One of those is based on fatal overdose data from this project and it shows that decedents in Florida with evidence of particularly rapid death following opioid drug usage were more likely to have been people recently released from institutional settings including jail, prison, or rehabilitative facilities.

The Center for Disease Control (CDC) granted FL-ESOOS with substantial funding for distribution to medical examiner districts for use in supporting their budgets for comprehensive toxicology testing. Since the Commission's last meeting, Dr. Card has met with a small group of medical examiner peers to discuss innovative strategies that might garner the support of the medical examiner community. Because they have carryover funds from FL-ESOOS in the amount of roughly \$259,000 which can be expended by the medical examiner community for toxicology testing through August 31, 2019. In addition, they have Overdose Prevention Interstate Search Support money in the amount of \$400,000 to be used for the same purpose. The efforts of the previous small group meeting were to find a spending solution to route all of that money appropriately rather than have to return it. Some ideas to distribute the money, including making records requests through county portals or distributing the money to FAME or the Commission for distribution directly to the medical examiners, did not prove to be viable options. Some districts are currently successfully invoicing the department to obtain reimbursement for the provision of records and their toxicology testing. Because this funding has been successful, she is currently working toward an alternative that directly includes the laboratories that most districts use for toxicology testing.

The department will continue to receive funding for this surveillance project and others in September 2019 and continuing for the next three federal fiscal years. This funding consolidates FL-ESOOS with Overdose Prevention Search Support and others and will continue to support toxicology testing. The new funding instrument also provided funds to support a new forensic epidemiologist which will be hired by the department for the specific purpose of working with the medical examiner community as a liaison between FDLE, the UF Toxicology Laboratory, and police departments.

Mr. Jones inquired about the \$659,000, and that due to budget authority issues, he was under the impression the funds would be available from July 1 to August 31, 2019. Dr. Card confirmed that budget authority issues had occurred, and there would be a very truncated project period of July 1 to August 31, 2019. She stated that technically these project periods come to a hard end on August 31, 2019 because the funding source is a different grant.

Mr. Jones asked about money available to the medical examiner community over the next three years (totaling \$557,000). Dr. Card confirmed the amount and that it would be allotted to the medical examiner community primarily to support comprehensive toxicology testing, although the language in the grant allows for other innovative suggestions about how that money can be used.

Mr. Jones recommended that the MEC work with Dr. Card on the \$659,000 to ensure that it is utilized before the deadline. He also requested that the Commission look at potentially putting together two workgroups to look at the \$557,000 over the next three years. One workgroup should examine how the funds can support the medical examiner community, and the other workgroup should examine how the money can be used to support toxicology.

Dr. Nelson agreed with Mr. Jones and then asked Dr. Goldberger if the UF Toxicology Lab's new time of flight mass spectrometer was operational. Dr. Goldberger responded by saying that it was not

operational because the lab was promised grant funding from Department of Health, but the budget authority issue has delayed implementation.

Dr. Nelson asked when the budget authority was lost because it was there in February. Mr. Jones responded that he talked to Dr. Card about a week ago and that's when they found out the budget authority was no longer available through the remainder of the Florida's fiscal year. However, the budget authority will be available July 1st for Dr. Goldberger's mass spectrometer. Mr. Jones stated that if there is an issue before July 1, 2019 with keeping the instrument and making payment, he would work with Dr. Card and the DOH to see what they could do to make sure the UF Toxicology Lab does not lose the mass spectrometer.

Dr. Nelson then asked Dr. Goldberger if he would be able to have the instrument operational by July 1st, or if it would take additional time before specimens could be tested. Dr. Goldberger responded it would be closer to August 1st before the instrument would be ready for testing specimens.

MR. JONES MADE A MOTION TO ESTABLISH WORKGROUPS FOR THE PURPOSE OF DEVELOPING WAYS TO BEST DISTRIBUTE DEPARTMENT OF HEALTH GRANT FUNDS AND MS. SHEPPARD SECONDED. THE MOTION PASSED UNANIMOUSLY THAT WORKGROUPS BE ESTABLISHED FOR THE PURPOSE OF DEVELOPING WAYS TO BEST DISTRIBUTE DEPARTMENT OF HEALTH GRANT FUNDS.

Dr. Wolf reported that the Seminole County Opioid Council and Sheriff Dennis Lemma are proposing a project that is very similar to the Department of Health Opioid Project and she recommended that they speak with Dr. Card.

ISSUE NUMBER 7: CDC'S NATIONAL VIOLENT DEATH REPORTING SYSTEM INTRODUCTION

Ms. Melissa Jordan from the Department of Health presented to the Commission an overview of the CDC's National Violent Death Reporting System (NVDRS). She noted that while this program has been active for many years throughout the nation, this is the first year of Florida's participation.

Ms. Jordan's stated that there are three required reporting sources for NVDRS. One source of data is death certificates, and all states are required to report 100% of death certificate data. The other two sources of information are law enforcement reports and medical examiner reports. There are more than 600 data fields entered into the NVDRS national database, and all of that information comes from those three data sources.

NVDRS collects its data in a tiered timeline that begins with the death of an individual with the deadline for all three data sources 40 months later. A case must be initiated in the NVDRS with death certificate data within four months of the death of the individual. The deadline for receiving the law enforcement reports, medical examiner reports, and data from optional secondary sources is 40 months from the date of death. Examples of secondary data sources include Child Fatality Review team data, Intimate Partner Violence expanded data, crime lab data, supplementary homicide reports, hospital data, and others.

In order to implement Florida's Violent Death Reporting System, in 2019 and possibly 2020, data for 40% of all violent deaths will be collected. This data will not be focused on the entire state, but instead only 13 counties (Broward, Clay, Columbia, Duval, Hamilton, Hillsborough, Miami-Dade, Nassau, Orange, Osceola, Palm Beach, Pasco, and Pinellas counties). This spread of counties should obtain data in about 53% of violent deaths in the state, as well as data from both urban and

rural areas. During the implementation stage of the project, contractual partnerships with University of South Florida, University of Florida, and Florida State University will provide technical assistance, subject matter expertise, abstraction support, and evaluation plan development.

Dr. Nelson asked Ms. Jordan if the NVDRS would be asking the medical examiners for the 600 data points mentioned in the presentation. Ms. Jordan said that she would not be asking for the information from the medical examiners, but instead would combine their request for violent death narrative reports along with Dr. Card's request for opioid involved deaths in order to leverage the resources that already exist in the Health Department. The requests would essentially be for reports only as the program will have abstractors who are responsible gathering the 600 plus data variables.

ISSUE NUMBER 8: 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, fentanyl analogs are notably absent during the first quarter of submissions in 2019. There is an increase in cathinone submissions, specifically eutylone and various pentylone mixtures. Xylazine and the designer benzodiazepines, such as etizolam, are also commonly appearing in forensic casework. Fentanyl mixtures with acetyl fentanyl, illicit tramadol, or mitragynine are also occurring.

ISSUE NUMBER 9: 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 with no resort fee. 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 full agenda as well as registration for the meeting should be available in about two weeks.

ISSUE NUMBER 10: OTHER BUSINESS

- Dr. Nelson presented former MEC staff member Beth McNeil with a signed resolution and read its contents into the record.

WHEREAS, the Medical Examiners Commission was created in 1970 by the passage of Chapter 406, Part I, Florida Statutes, also known as the Medical Examiners Act; and,

WHEREAS, this Commission plays a vital role in support of Florida's criminal justice system, to the families of the deceased in determining the cause and manner of death of their loved ones whose deaths come under the jurisdiction of the medical examiner, and by contributing to the protection of the public health of the citizens of Florida; and,

WHEREAS, the staff which serves the Medical Examiners Commission is housed within and supported by the Florida Department of Law Enforcement; and,

WHEREAS, Mrs. Beth McNeil has served the citizens of Florida as staff of the Medical Examiners Commission since November 2015; and,

WHEREAS, Mrs. McNeil worked tirelessly to enhance the various reports of the Commission, as well as develop new data collection methods; and,

WHEREAS, Mrs. McNeil conducted thorough analysis to ensure the Reports of Drugs Identified in Deceased Person and the Annual Workload are published accurately and timely; and,

WHEREAS, Mrs. McNeil has, through her pleasant yet professional demeanor, integrity and commitment made significant contributions to the Commission and has been an invaluable asset.

NOW THEREFORE, let it be resolved that this Commission on behalf of Florida's medical examiners, the medical-legal community, and all of the citizens of Florida whom she has served so well, does hereby recognize and commend Mrs. Beth McNeil for the dedication and exemplary service she has offered to the Florida medical examiners system and hopes that she maintains her enthusiasm and professionalism, and wish her success in all her future endeavors.

PASSED AND RECORDED, in the official minutes of the Medical Examiners Commission meeting on this Wednesday, the 1st day of May, 2019, in Gainesville, Alachua County, Florida.

- Dr. Wolf updated the Commission about the National Association of Medical Examiner's (NAME) Accreditation program. She stated that NAME entered into an alliance with ANSI National Accreditation Board (ANAB) to provide joint accreditation inspections under NAME's core checklist in conjunction with the ISO/IEC 17020 program. Over the course of four years, only two medical examiner offices nationally went through joint assessments; one being a one person office and the other being a very large office with a tremendous amount of money. During the course of those assessments, it became apparent to NAME's board of directors that the alliance was no longer going to be feasible. This was based not only on logistical and financial reasons, but also the fact that the two types of accreditation focused on very different things. NAME felt that their own legacy or core inspection program more fully represented the issues that affect medical examiner's offices. As a result, NAME elected to split from the alliance with ANAB. NAME will continue to offer the program that they have had for many years. If an office still desires to apply for accreditation under ISO 17020, ANAB will continue to offer that accreditation. NAME feels that the ISO 17020 accreditation cannot be performed without a forensic pathologist, so NAME inspectors will continue to assist with ISO 17020 accreditations, but it will no longer be part of NAME accreditation process.
- District 1 Director of Operations Jeff Martin addressed the Commission by reading a letter on behalf of District 1 Interim Medical Examiner Andrea N. Minyard, M.D., into the record.

I recently traveled to Dr. Wolf's district to review her "non-medical examiner" cases in order to learn how to properly decline cases and to determine if she should be my "supervisor" during the proposed 12 month probation that her probable cause panel recommended. I reviewed District 5's NME (non-medical examiner) cases from 2015. NME cases are those in which jurisdiction is declined by the MEO, and the DC is signed by a non-ME physician.

I found several cases in her 2015 files that closely mirror the ones that I have been accused of improperly handling. I also found several cases (from 2015) which I believe stand alone as examples of improper release of jurisdiction.

I am prepared to revisit Dr. Wolf's 2016 through 2018 NME cases to get a better understanding of how many cases I believe have been improperly handled, and whether 2015 represents the tip of the iceberg.

In the meantime, I ask the MEC and all District Medical Examiner offices to weigh in on the merits of submitting a formal administrative complaint against Dr. Wolf versus reviewing changes to MEC disciplinary actions that could potentially be helpful to Florida's Medical Examiners and make our system fair, balanced, and free from political influence.

Andi Minyard

Dr. Wolf asked to make some clarifications, and commented that if she was ever asked to be Dr. Minyard's supervisor, she would respectfully decline because she would consider that a conflict of interest.

Dr. Wolf also provided clarification as to the process that Dr. Minyard took to review case materials in the District 5 & 24 Medical Examiner's Office. She stated that her records custodian received a public records request from Dr. Minyard wishing to review over 8,000 case files and while she was communicating with Dr. Minyard what a request like that would entail and the logistics of completing that request, Dr. Minyard came to the District 5 & 24 Medical Examiner's Office in person to examine the files. The records custodian explained to Dr. Minyard that all that was available in print form were the investigative narratives from the cases and that any additional materials were kept in electronic form. Dr. Minyard also asked to review all of the medical records for each of the 8,000 cases, and Dr. Wolf's records custodian declined that request on the basis that those documents have privileged information. Dr. Minyard then asked that the Medical Examiner's Office make a list of all the records that were reviewed on each case, but the records custodian also declined that request because public records laws do not require an office to create records that do not exist. Dr. Wolf went on to say that, in essence, the allegations that Dr. Minyard made against the work performed at Dr. Wolf's office were made without even viewing all of the pertinent case files including medical records, law enforcement investigation materials, etc.

- Jonathan Bethard, Ph.D., assistant professor of anthropology at the University of South Florida, announced that he and his colleague, Heather Walsh-Haney, Ph.D., at Florida Gulf Coast University have recently become board certified by the American Board of Forensic Anthropology.
- Mrs. Whitmore addressed the Commission with her concerns about serving on the Commission and only being able to attend most Commission Meetings via conference call due to her husband's health issues. She stated that she loves being on the Commission, but would resign from her position if necessary. Mrs. Whitmore was thanked for serving on the Commission and no members of the Commission wished for her to resign.
- Mr. Cofer voiced his concern about the District 1 Medical Examiner Search Committee not taking any steps in finding a new medical examiner for the district since the Commission voted not to recommend Dr. Minyard for reappointment more than three months ago. He stated that he cannot see how any litigation matter between the constituents of the district and the district medical examiner could mandate the action of the Commission

Dr. Nelson responded by saying that a search committee had been established, but it had been his recommendation to the search committee that they wait until litigation has completed until moving forward. He also said that because of the small forensic pathology community in the country, he believes that it would be detrimental to proceed when the current medical examiner is being sued by all four counties in the district.

Mr. Cofer said that he appreciates that, but his concern is that the litigation is going to drag on and prevent that district from finding another medical examiner.

Dr. Nelson responded by saying that he was concerned with wasting everybody's time by advertising for the position, getting a few people that were interested, and then for a job offer to fizzle out after the applicants discover the explosive environment they will be inserting themselves into.

- Ms. Koenig reminded everyone that the next Medical Examiners Commission meeting will be either August 6th or August 9th in Ponte Vedra Beach at TPC Sawgrass.

With no further business to come before the Commission, the meeting was adjourned at 11:32 A.M.