

## CHAPTER 69

(House Bill 394)

AN ACT concerning

### **State Postmortem Examiners Commission – Office of the Chief Medical Examiner – Postmortem Examiners Law**

FOR the purpose of altering and expanding the requirements for the staff of the State Postmortem Examiners Commission; requiring the Chief Medical Examiner, deputy chief medical examiners, and certain assistant medical examiners to be certified in a certain medical specialty by a certain board; authorizing the Commission to appoint forensic investigators; requiring the Office of the Chief Medical Examiner to orally report certain findings and deliver a copy of a certain autopsy report to certain agencies if a case involves the death of a child in certain circumstances; providing that medical examiners who perform autopsies may retain any medical evidence, tissue, or organ needed to carry out the duties of the postmortem examiners law; requiring the Office of the Chief Medical Examiner to charge a reasonable fee for certain reports; and generally relating to the State Postmortem Examiners Commission, the Office of the Chief Medical Examiner, and the postmortem examiners law.

BY repealing and reenacting, without amendments,  
Article – Health – General  
Section 5–301  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
Article – Health – General  
Section 5–305, 5–306(b)(1), 5–309(f), 5–310(b) and (d)(2)(vi), and 5–311(a), (d),  
and (e)  
Annotated Code of Maryland  
(2005 Replacement Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

#### **Article – Health – General**

5–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Commission" means the State Postmortem Examiners Commission.

(c) "Medical examiner's case" means a death that a medical examiner is required by law to investigate.

5-305.

(a) (1) The Commission may employ a staff in accordance with the State budget **FOR THE OPERATION OF THE COMMISSION AND TO MAINTAIN ACCREDITATION.**

(2) The staff shall include:

(i) 1 chief medical examiner;

(ii) [1 deputy chief medical examiner] **2 DEPUTY CHIEF MEDICAL EXAMINERS;**

(iii) [4 assistant medical examiners] **ASSISTANT MEDICAL EXAMINERS;**

(iv) [1 toxicologist] **1 CHIEF STATE TOXICOLOGIST, 1 DEPUTY CHIEF STATE TOXICOLOGIST, LEAD TOXICOLOGISTS, AND ASSISTANT TOXICOLOGISTS;**

[(v) 2 assistant toxicologists;

(vi)] **(V)** 1 serologist;

[(vii)] **(VI)** 4 resident medical doctors who are training in forensic pathology; [and]

[(viii)] **(VII)** [1 chief traffic investigator] **1 CHIEF FORENSIC INVESTIGATOR, 2 DEPUTY CHIEF FORENSIC INVESTIGATORS, LEAD FORENSIC INVESTIGATORS, AND ASSISTANT FORENSIC INVESTIGATORS; AND**

**(VIII) 1 AUTOPSY SERVICES SUPERVISOR, 1 DEPUTY SUPERVISOR, LEAD AUTOPSY TECHNICIANS, AND ASSISTANT AUTOPSY TECHNICIANS.**

(3) The Commission may employ any physician on a contract basis for part-time services.

(b) (1) [Each medical examiner appointed under subsection (a)(2) of this section shall be a physician with at least 2 years postgraduate training in pathology] **THE CHIEF MEDICAL EXAMINER AND DEPUTY CHIEF MEDICAL EXAMINERS SHALL BE BOARD CERTIFIED IN ANATOMIC AND FORENSIC PATHOLOGY BY THE AMERICAN BOARD OF PATHOLOGY.**

(2) **ASSISTANT MEDICAL EXAMINERS APPOINTED ON OR AFTER OCTOBER 1, 2008, SHALL BE CERTIFIED BY THE AMERICAN BOARD OF PATHOLOGY IN ANATOMIC AND FORENSIC PATHOLOGY OR OBTAIN THAT CERTIFICATION WITHIN 3 YEARS OF APPOINTMENT.**

(c) With the approval of the Secretary of Budget and Management, the Commission shall set the compensation for personnel appointed under subsection (a)(2) of this section.

[(d) The Chief Medical Examiner, Deputy Chief Medical Examiner, and assistant medical examiners shall have an office in Baltimore City.]

[(e)] (D) For the use of these medical examiners, the Commission shall[:

(1) See that proper equipment is provided; or

(2) Arrange for use of the laboratory and other equipment of the Department, the Baltimore City Health Department, the Department of State Police, or the Baltimore City Police Department] **SEE THAT PROPER EQUIPMENT IS PROVIDED.**

[(f)] (E) The Chief Medical Examiner, [the Deputy Chief Medical Examiner,] **A DEPUTY CHIEF MEDICAL EXAMINER,** or an assistant medical examiner shall be on call at all times to perform the duties set forth in this subtitle.

[(g)] (F) The State budget shall include an appropriation to carry out this subtitle, including provisions for:

(1) The fee for an authorized pathologist;

(2) The necessary expenses for transportation of a body for examination by a medical examiner or for autopsy; and

(3) In the case of a victim of homicide, the necessary expenses for transportation of the body from the site of the autopsy or examination to a location within the State specified by the victim's family.

(b) (1) The Commission may appoint one or more deputy medical examiners **AND FORENSIC INVESTIGATORS** for each county.

5-309.

(f) **(1)** If the case involves the unexpected death of a child, the medical examiner shall notify the chairperson of the local child fatality review team for the county in which the child resided.

**(2) IF THE CASE INVOLVES THE DEATH OF A CHILD AND THE DEATH IS BELIEVED TO BE CAUSED BY ABUSE OR NEGLECT, OR THERE IS EVIDENCE SUGGESTING THAT THE CHILD WAS A VICTIM OF ABUSE OR NEGLECT, THE OFFICE OF THE CHIEF MEDICAL EXAMINER SHALL ORALLY REPORT THE FINDINGS AND DELIVER A COPY OF THE CHILD'S FINAL AUTOPSY REPORT TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND THE LOCAL LAW ENFORCEMENT AGENCY OF THE COUNTY IN WHICH THE CHILD LAST RESIDED IN ACCORDANCE WITH § 5-704 OF THE FAMILY LAW ARTICLE.**

5-310.

(b) (1) If the medical examiner who investigates a medical examiner's case considers an autopsy necessary, the Chief Medical Examiner, [the Deputy Chief Medical Examiner,] **A DEPUTY CHIEF MEDICAL EXAMINER**, an assistant medical examiner, or a pathologist authorized by the Chief Medical Examiner shall perform the autopsy.

(2) If the family of the deceased objects to an autopsy on religious grounds, the autopsy may not be performed unless authorized by the Chief Medical Examiner or by the Chief Medical Examiner's designee.

**(3) (I) IN ACCORDANCE WITH NORMAL STANDARDS OF MEDICAL PRACTICE, THE MEDICAL EXAMINER PERFORMING THE AUTOPSY MAY RETAIN ANY MEDICAL EVIDENCE, TISSUE, OR ORGAN NEEDED TO CARRY OUT THE DUTIES OF THIS SUBTITLE.**

**(II) THE MEDICAL EXAMINER SHALL DISPOSE OF ANY MEDICAL EVIDENCE, TISSUE, OR ORGAN UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN ACCORDANCE WITH NORMAL STANDARDS OF MEDICAL PRACTICE.**

(d) (2) (vi) If the final decision of the Secretary, **OR** of the Secretary's designee, or of a court of competent jurisdiction on appeal, establishes a different finding or conclusion on the cause or manner of death of a deceased than that recorded on the certificate of death, the medical examiner shall amend the certificate to reflect

the different finding or conclusion under §§ 4-212 and 4-214 of this article and § 10-625 of the State Government Article.

5-311.

(a) (1) The **OFFICE OF THE** Chief Medical Examiner [and, as to their respective counties, each of the deputy medical examiners] shall keep complete records on each medical examiner's case.

(2) The records shall be indexed properly and include:

- (i) The name, if known, of the deceased;
- (ii) The place where the body was found;
- (iii) The date, cause, and manner of death; and
- (iv) All other available information about the death.

(d) (1) In this subsection, "record":

(i) Means the result of [a view or] **AN EXTERNAL** examination of or an autopsy on a body; and

(ii) Does not include a statement of a witness or other individual.

(2) A record of the office of the Chief Medical Examiner or any deputy medical examiner, if made by the medical examiner or by anyone under the medical examiner's direct supervision or control, or a certified transcript of that record, is competent evidence in any court in this State of the matters and facts contained in it.

(e) (1) [A medical examiner shall charge a reasonable fee for making insurance and other similar reports] **THE OFFICE OF THE CHIEF MEDICAL EXAMINER SHALL CHARGE A REASONABLE FEE FOR REPORTS AS SPECIFIED IN A SCHEDULE OF FEES DEFINED IN THE REGULATIONS OF THE OFFICE OF THE CHIEF MEDICAL EXAMINER.**

(2) A deputy medical examiner may keep any fee collected by the deputy medical examiner.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

**Approved by the Governor, April 8, 2008.**