

Chapter 268

(House Bill 977)

AN ACT concerning

Maryland Department of Health – Office of the Chief Medical Examiner

FOR the purpose of establishing the Office of the Chief Medical Examiner in the Maryland Department of Health to advance forensic science and carry out other duties as provided by law; renaming the State Postmortem Examiners Commission to be the Postmortem Examiners Advisory Committee; establishing the duties of the Committee; requiring and authorizing the Department and the Office to perform certain duties and powers previously performed by the Commission; altering the type and number of certain medical doctors the Office is required to employ; authorizing the Department to contract with a physician for employment with the Office on a per diem basis; altering the time period within which certain assistant medical examiners must obtain a certain certification; requiring the Secretary of Health to consult with the Committee on matters related to the employment of the Chief Medical Examiner; prohibiting the Department and the Committee from interfering with certain clinical findings and conclusions by the Office; prohibiting the reduction of the allowance of certain individuals who are receiving a service retirement allowance or vested allowance from the State Retirement and Pension System and are reemployed on a contractual basis by the Department as health care practitioners in the Office; and generally relating to the Office of the Chief Medical Examiner.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 2–106, 5–301 through 5–307, and 5–309 through 5–312
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY repealing
Article – Health – General
Section 5–308
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 23–407(a), (b), and (c)(1)(iii), (2), and (3)
Annotated Code of Maryland
(2015 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions

Section 23–407(c)(4)(vi)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2022 Supplement)

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

Article – Health – General

2–106.

(a) The following units are in the Department:

- (1) Anatomy Board.
- (2) Behavioral Health Administration.
- (3) Developmental Disabilities Administration.
- (4) Health Services Cost Review Commission.
- (5) Maryland Psychiatric Research Center.

(6) ~~[Postmortem Examiners Commission]~~ **OFFICE OF THE CHIEF MEDICAL EXAMINER.**

(7) Board of Examiners for Audiologists, **HEARING AID DISPENSERS, SPEECH–LANGUAGE PATHOLOGISTS, AND MUSIC THERAPISTS.**

- (8) Board of Chiropractic Examiners.
- (9) Board of Dental Examiners.
- (10) Board of Dietetic Practice.
- (11) Board of Electrologists.
- (12) Board of Morticians **AND FUNERAL DIRECTORS.**
- (13) Board of Nursing.

(14) Board of ~~Examiners~~ of [Nursing Home] **LONG–TERM CARE Administrators.**

- (15) Board of Occupational Therapy Practice.

- (16) Board of Examiners in Optometry.
- (17) Board of Pharmacy.
- (18) Board of Physical Therapy Examiners.
- (19) Board of Physicians.
- (20) Board of [Podiatry] **PODIATRIC MEDICAL** Examiners.
- (21) Board of Professional Counselors and Therapists.
- (22) Board of Examiners of Psychologists.
- (23) Board of Social Work Examiners.
- (24) **ACUPUNCTURE** Board [of Examiners for Speech–Language Pathologists].

(25) BOARD OF MASSAGE THERAPY EXAMINERS.

(26) BOARD FOR CERTIFICATION OF RESIDENTIAL CHILD CARE PROGRAM PROFESSIONALS.

(27) BOARD OF ENVIRONMENTAL HEALTH SPECIALISTS.

(b) The Department also includes every other unit that is in the Department under any other law.

(c) The Secretary has the authority and powers specifically granted to the Secretary by law over the units in the Department. All authority and powers not so granted to the Secretary are reserved to those units free of the control of the Secretary.

5–301.

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

(b) [“Commission”] **“COMMITTEE”** means the [State] Postmortem Examiners [Commission] **ADVISORY COMMITTEE.**

(c) “Medical examiner’s case” means a death that a medical examiner is required by law to investigate.

(D) “OFFICE” MEANS THE OFFICE OF THE CHIEF MEDICAL EXAMINER.

5–302.

(A) There is [a State Postmortem Examiners Commission] **AN OFFICE OF THE CHIEF MEDICAL EXAMINER** in the Department.

(B) THE OFFICE SHALL:

(1) AS ALLOWED BY STAFFING, ADVANCE FORENSIC SCIENCE THROUGH MEDICAL EDUCATION AND RESEARCH; AND

(2) CARRY OUT ANY OTHER DUTY ESTABLISHED IN LAW.

5-303.

(a) THERE IS A POSTMORTEM EXAMINERS ADVISORY COMMITTEE.

(B) The [Commission] **COMMITTEE** consists of the following [5] members:

(1) The Baltimore City Commissioner of Health;

(2) The head of the Pathology Department of the University of Maryland School of Medicine;

(3) The head of the Pathology Department of Johns Hopkins University School of Medicine;

(4) The Secretary of State Police; [and]

(5) A representative of the Department, chosen by the Secretary; **AND**

(6) ANY OTHER INDIVIDUAL APPOINTED BY THE SECRETARY, IN CONSULTATION WITH THE OFFICE.

[(b)] (C) [(1)] From among [its] **THE COMMITTEE** members, the [Commission] **SECRETARY** shall [elect a chairman and a vice chairman] **APPOINT A CHAIR.**

[(2)] The manner of election of officers and their terms of office shall be as the Commission determines.

(3) The vice chairman shall act as chairman when the chairman is absent or cannot act.]

(D) THE COMMITTEE SHALL ADVISE THE SECRETARY AND THE OFFICE ON:

- (1) **THE IMPLEMENTATION OF THIS SUBTITLE; AND**
- (2) **CARRYING OUT THE OFFICE'S DUTIES.**

5-304.

(a) The [Commission] **COMMITTEE** shall determine the times and places of its meetings.

(b) A member of the [Commission] **COMMITTEE** may not receive compensation **FOR PERFORMING COMMITTEE DUTIES.**

5-305.

(a) (1) The [Commission] **DEPARTMENT** may employ a staff in accordance with the State budget for the operation of the [Commission] **OFFICE** and to maintain accreditation.

(2) The staff shall include:

(i) 1 chief medical examiner;

(ii) 2 deputy chief medical examiners;

(iii) Assistant medical examiners;

(iv) 1 chief State toxicologist, 1 deputy chief State toxicologist, lead toxicologists, and assistant toxicologists;

(v) 1 serologist;

(vi) [4 resident] **IN ACCORDANCE WITH THE NUMBER OF POSITIONS APPROVED BY THE ACCREDITATION COUNCIL FOR GRADUATE MEDICAL EDUCATION, FELLOW** medical doctors who are training in forensic pathology;

(vii) 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] **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEPARTMENT** may employ any physician on a contract basis for part-time services **OR PER DIEM SERVICES.**

(4) The Department shall ensure that the number of staff employed ~~by the Commission~~ **AT THE OFFICE** does not fall to a level that would constitute a Phase II violation according to the National Association of Medical Examiners.

(b) (1) 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] **THE ASSISTANT MEDICAL EXAMINER'S PERIOD OF BOARD ELIGIBILITY PROVIDED BY THE AMERICAN BOARD OF PATHOLOGY.**

(3) THE SECRETARY SHALL CONSULT WITH THE COMMITTEE REGARDING MATTERS RELATED TO THE EMPLOYMENT OF THE CHIEF MEDICAL EXAMINER.

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

(d) [For the use of these medical examiners, the Commission] **THE OFFICE** shall see that proper equipment is provided **FOR THE MEDICAL EXAMINERS.**

(e) The 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.

(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.

5-306.

(a) This section does not apply to Baltimore City.

(b) (1) [The Commission] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE OFFICE** may appoint one or more deputy medical examiners and forensic investigators for each county.

(2) (I) The [Commission] **OFFICE** shall appoint a deputy medical examiner for a county from a list of qualified individuals submitted to the [Commission] **OFFICE** by the medical society of the county.

(II) The number of names on the list shall be at least twice the number of vacancies. [However, if]

(III) **IF** a county does not have a medical society or if the medical society does not submit a list of names, the [Commission] **OFFICE** may appoint a deputy medical examiner for the county without a list.

(c) Each deputy medical examiner appointed under subsection (b) of this section shall be a physician.

(d) If necessary, a deputy medical examiner may deputize another physician in the county to act as deputy medical examiner.

(e) Each deputy medical examiner is entitled:

(1) For each medical examiner's case that the examiner investigates, to a fee that is set in accordance with the State budget;

(2) If the examiner is called as a witness before a grand jury or in a criminal case, to the fee that the court sets; and

(3) To any additional compensation that a county provides.

5-307.

The [Commission] **DEPARTMENT, IN CONSULTATION WITH THE COMMITTEE,** may adopt rules and regulations to carry out the provisions of this subtitle.

[5-308.

(a) The power of the Secretary over plans, proposals, and projects of units in the Department does not include the power to disapprove or modify any decision or determination that the Commission makes under authority specifically delegated by law to the Commission.

(b) The power of the Secretary to transfer by rule, regulation, or written directive, any staff, functions, or funds of units in the Department does not apply to any staff, function, or funds of the Commission.]

[5-309.] 5-308.

(a) (1) A medical examiner shall investigate the death of a human being if the death occurs:

(i) By violence;

(ii) By suicide;

(iii) By casualty;

(iv) Suddenly, if the deceased was in apparent good health or unattended by a physician; or

(v) In any suspicious or unusual manner.

(2) A medical examiner shall investigate the death of a human fetus if:

(i) Regardless of the duration of the pregnancy, the death occurs before the complete expulsion or extraction of the fetus from the mother; and

(ii) The mother is not attended by a physician at or after the delivery.

(b) If a medical examiner's case occurs, the police or sheriff immediately shall notify the medical examiner and State's Attorney for the county where the body is found and give the known facts concerning the time, place, manner, and circumstances of the death.

(c) Immediately on notification that a medical examiner's case has occurred, the medical examiner or an investigator of the medical examiner shall go to and take charge of the body. The medical examiner or the investigator shall investigate fully the essential facts concerning the medical cause of death and, before leaving the premises, reduce these facts and the names and addresses of witnesses to writing, which shall be filed in the medical examiner's office.

(d) The medical examiner or the investigator shall take possession of and deliver to the State's Attorney or the State's Attorney's designee any object or article that, in the opinion of the medical examiner or the investigator, may be useful in establishing the cause of death.

(e) (1) If the next of kin of the deceased is not present at the investigation, the police officer or sheriff at the investigation or, if a police officer or sheriff is not present, the medical examiner or the investigator shall:

- (i) Take possession of all property of value found on the body;
- (ii) In the report of the death, make an exact inventory of the property; and
- (iii) Deliver the property to the appropriate sheriff or police department.

(2) The sheriff or police department shall surrender the property to the person who is entitled to its possession or custody.

(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.] 5-309.

(a) If the cause of death is established to a reasonable degree of medical certainty, the medical examiner who investigates the case shall file in the medical examiner's office a report on the cause of death within 30 days after notification of the case.

(b) (1) If the medical examiner who investigates a medical examiner's case considers an autopsy necessary, the 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.

(c) (1) A medical examiner shall conduct an autopsy of any fire fighter and any sworn personnel of the State Fire Marshal's Office who dies in the line of duty or as a result of injuries sustained in the line of duty.

(2) The autopsy shall include:

(i) A toxicological analysis for toxic fumes;

(ii) Gross and microscopic studies of heart, lung, and any other tissue involved;

(iii) Appropriate studies of blood and urine; and

(iv) Appropriate studies of body fluids and body tissues.

(3) If the medical examiner determines toxic fumes were the cause of death, the medical examiner shall:

(i) Investigate to the extent possible the source of the fumes; and

(ii) Prepare a written report on the specific effects of the fumes on human tissue.

(4) The autopsy and analysis shall be sufficient to determine eligibility for benefits under the federal Public Safety Officers' Benefits Act of 1976.

(d) (1) (i) The individual who performs the autopsy shall prepare detailed written findings during the progress of the autopsy.

(ii) The findings prepared under subparagraph (i) of this paragraph and the conclusions drawn from them shall be filed in the office of the medical examiner for the county where the death occurred.

(iii) The original copy of the findings and conclusions shall be filed in the [office of the Chief Medical Examiner] **OFFICE**.

(IV) THE DEPARTMENT AND THE COMMITTEE MAY NOT INTERFERE WITH THE CLINICAL FINDINGS OR CONCLUSIONS PREPARED UNDER SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH.

(2) (i) Except in a case of a finding of homicide, a person in interest as defined in § 4-101(e) of the General Provisions Article may request the medical examiner

to correct findings and conclusions on the cause and manner of death recorded on a certificate of death under § 4–502 of the General Provisions Article within 60 days after the medical examiner files those findings and conclusions.

(ii) 1. If the Chief Medical Examiner denies the request of a person in interest to correct findings and conclusions on the cause and manner of death, the person in interest may appeal the denial to the Secretary, who shall refer the matter to the Office of Administrative Hearings.

2. A contested case hearing under this subparagraph shall be a hearing both on the denial and on the establishment of the findings and conclusions on the cause and manner of death.

(iii) The administrative law judge shall submit findings of fact to the Secretary.

(iv) After reviewing the findings of the administrative law judge, the Secretary, or the Secretary's designee, shall issue an order to:

1. Adopt the findings of the administrative law judge; or

2. Reject the findings of the administrative law judge, and affirm the findings of the medical examiner.

(v) The appellant may appeal a rejection under subparagraph (iv)2 of this paragraph to a circuit court of competent jurisdiction.

(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 § 4–502 of the General Provisions Article.

(vii) The final decision of the Secretary, or the Secretary's designee, or of a court under this paragraph may not give rise to any presumption concerning the application of any provision of or the resolution of any claim concerning a policy of insurance relating to the deceased.

(viii) If the findings of the medical examiner are upheld by the Secretary, the appellant is responsible for the costs of the contested case hearing. Otherwise, the Department is responsible for the costs of the hearing.

(e) The Chief Medical Examiner shall set a reasonable fee for performing an autopsy by an authorized pathologist.

[5-311.] 5-310.

(a) (1) The Office of the Chief Medical Examiner 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.

(b) The original report of the medical examiner who investigates a medical examiner's case and the findings and conclusions of any autopsy shall be attached to the record of the medical examiner's case.

(c) The Chief Medical Examiner or, if the Chief Medical Examiner is absent or cannot act, the Deputy Chief Medical Examiner or an assistant medical examiner, and each deputy medical examiner promptly shall deliver to the State's Attorney for the county where the body was found a copy of each record that relates to a death for which the medical examiner considers further investigation advisable. A State's Attorney may obtain from the office of a medical examiner a copy of any record or other information that the State's Attorney considers necessary.

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

(i) Means the result of 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) 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.

[5-312.] 5-311.

Subject to the limitations in [§ 5-311(c)] **§ 5-310(C)** of this subtitle, a medical examiner may administer oaths, take affidavits, and make examinations as to any matter within the medical examiner's jurisdiction.

Article – State Personnel and Pensions

23-407.

(a) In this section, “area of critical shortage” means an academic field identified by the State Department of Education in accordance with the provisions of § 18-703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(b) Except as provided in subsection (d) of this section, an individual who is receiving a service retirement allowance or a vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) Except as provided in § 23-408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23-402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and subject to subparagraphs (iii) and (iv) of this paragraph, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Pension System who as faculty receiving a 10-month salary, retired directly from:

- A. the University System of Maryland;
- B. Morgan State University;
- C. St. Mary's College; or
- D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree's initial annual basic allowance and the retiree's annual compensation, as calculated in subsubparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree's annual compensation in subsubparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

- A. bonuses;
- B. overtime;
- C. summer school salaries;
- D. adult education salary;
- E. additional temporary payments from special research projects;
- F. honorariums; and
- G. vehicle stipends.

(iii) Any reduction taken under this subsection may not reduce the retiree's allowance to an amount less than the required deduction for:

1. if the retiree retired from any unit of State government, the retiree's monthly State-approved medical insurance premiums; or

2. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree's retirement.

(iv) The Board of Trustees shall recover from the retiree any difference between the reduction required under subparagraph (i) of this paragraph and the reduction taken under subparagraph (iii) of this paragraph.

(3) A reduction of an early service retirement allowance or an early vested allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis by the Maryland Department of Health as a health care practitioner, as defined in § 1-301 of the Health Occupations Article in:

1. a State residential center as defined in § 7-101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10-101 of the Health – General Article; [or]

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article; **OR**

5. THE OFFICE OF THE CHIEF MEDICAL EXAMINER;

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Approved by the Governor, May 3, 2023.