



Wes Moore, Governor · Aruna Miller, Lt. Governor · Meena Seshamani, M.D., Ph.D., Secretary

March 4, 2026

The Honorable Heather Bagnall  
Chair, House Health Committee  
241 Taylor House Office Building  
Annapolis, Maryland 21401

**RE: House Bill 1143 Public Health – Office of the Chief Medical Examiner – Perinatal Autopsies (Lung Float Test Ban) – Letter of Concern**

Dear Chair and Members of the Committee:

The Maryland Office of the Chief Medical Examiner (OCME) respectfully submits this letter in concern to House Bill (HB) 1143, which would prohibit the use of the perinatal hydrostatic (lung float) test in medicolegal death investigations.

Forensic pathology is the practice of medicine - the medical evaluation of death. Under Maryland Health General Title 5, the legislature has already delegated to licensed physicians the authority and responsibility to determine cause and manner of death. That delegation reflects the fundamental principle that medical determinations are to be made by trained medical professionals exercising independent judgment, not by statute prohibiting specific diagnostic steps. At its core, the mission of the OCME is simple: to provide independent, objective, and scientifically grounded medical findings on behalf of the deceased. Forensic pathologists are licensed physicians tasked with determining cause and manner of death by exercising professional judgment within established medical standards.

The Maryland OCME is accredited by the National Association of Medical Examiners (NAME) and conducts all medicolegal investigations in accordance with NAME standards and nationally recognized forensic pathology guidelines. NAME accreditation reflects compliance with rigorous professional benchmarks, including peer review, quality assurance, and adherence to scientific best practices. The OCME's work is guided by these national standards.

The hydrostatic lung float test is a historical forensic tool that has been used as part of perinatal autopsy examinations dating back to the 17th century, as one potential data point among many. Modern forensic medicine recognizes that the test has limitations and should *never* be used as a sole determinant of live birth. In its recent scientific position paper on the investigation and

certification of fetal demise, stillborn, and early neonatal deaths<sup>1</sup>, NAME notes that the hydrostatic lung float test has “known pitfalls” and is of “questionable value” *when interpreted in isolation*. While, importantly, NAME has not issued a prohibition on its use, the guidance emphasizes that no single test should be determinative and that conclusions must be based on comprehensive autopsy findings, scene investigation, medical history, placental examination, and other relevant data<sup>2</sup>. It is well recognized that the lung float test lacks clearly defined error rates and may be susceptible to false positive findings due to decomposition and other confounding factors<sup>3</sup>. And for those reasons, when it is used, trained forensic pathologists interpret it cautiously and within the totality of medical evidence. The determination of live birth versus stillbirth is incredibly complex and requires thoughtful synthesis of all available information and not reliance on any single test. The OCME recognizes the public concern regarding the historical misuse or over-interpretation of the hydrostatic lung test when relied upon in isolation, and the current practice of the OCME is fully aligned with NAME standards and recommendations.

The integrity of medicine, whether in the care of the living or the deceased, depends on allowing trained physicians to apply professional standards and evidence-based judgment without undue legislative intrusion<sup>4</sup>. House Bill 1143 creates structural tension with Health–General § 5-309(E)(1)(iv), which expressly protects the clinical findings and conclusions of the medical examiner from interference. By prohibiting a specific diagnostic technique and attaching civil and disciplinary consequences to its use, the bill moves beyond safeguarding outcomes and into regulating the medical methodology used to reach them, thereby narrowing the professional discretion the statute was designed to preserve. Prohibiting one observational component sets a concerning precedent, as forensic medicine, like clinical medicine, relies on the synthesis of multiple findings, each of which may carry inherent uncertainty but remain informative when interpreted by a doctor in context. Careful consideration of this balance is respectfully urged.

Recognizing that this proposal may arise within broader national policy discussions, it is important to emphasize that forensic pathology operates within its own defined institutional and functional scope. The OCME does not prosecute cases, determine charging decisions, or establish criminal justice policy. Concerns about how medical and autopsy findings may be used in the court of law are most appropriately addressed with prosecutorial policy, evidentiary standards, and/or criminal statutes. To this end, we welcome the opportunity to discuss HB 1143’s intent and potential paths to address concerns that would not otherwise legislate clinical standards.

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<sup>1</sup> The National Association of Medical Examiners Position Paper on the Investigation and Certification of Fetal Demise, Stillborn, and Early Neonatal Deaths. *Am J Forensic Med Pathol* 2025.

<sup>2</sup> Ely, S. F., & Gill, J. R. (2018). Principles of forensic pathology: From investigation to certification – Concepts in forensic thinking and practice. Academic Press.

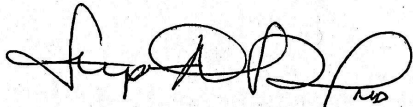
<sup>3</sup> Sens, M. A., & Hughes, D. W. (Eds.). (2014). Diagnostic pathology: Forensic autopsy. Elsevier.

<sup>4</sup> The National Association of Medical Examiners Position Paper: Medical Examiner, Coroner, and Forensic Pathologist Independence. *Acad Forensic Pathol* 2013(1): 93-98.

The OCME remains committed to working collaboratively with law enforcement, attorneys, and other stakeholders to promote accurate understanding of autopsy findings and their limitations. We routinely provide education, clarification, and testimony so that medical conclusions are appropriately interpreted within their scientific context.

For these reasons, the Office of the Chief Medical Examiner respectfully urges caution against establishing a precedent that encroaches upon the independent practice of medicine and risks politicizing a field whose duty is scientific objectivity and advocacy for the deceased.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Stephanie A. Dean, M.D.', with a stylized flourish at the end.

**Stephanie A. Dean, M.D.**

Chief Medical Examiner  
State of Maryland