

Foreword to the Guidelines for the Utilization of Pathology Assistants in Medical Examiner Offices

Board of Directors Approved October 1, 2010 – Expires 10/1/2015

The essential question about the utilization of pathology assistants facing the pathologist-medical examiner and NAME is about our professionalism - how much of our endeavors, particularly with respect to the autopsy, do we wish to relegate to paraprofessionals. For the forensic pathologist, this may be reduced to the questions of whom we wish the courts to recognize as expert witnesses and to whom we wish families to turn for medical information about the death of a loved one. Professionals profess to have a certain modicum of knowledge about some aspect of human activity and have the moral obligation to limit their activity to the confines of that particular discipline: they are self-regulating. Laws governing their education, qualifications and their limitations attempt to assure the public that those people claiming expertise are not frauds. Forensic pathologists profess to have expertise in investigating deaths and in determining the cause and manner of death in all types of fatalities but most particularly those occurring suddenly and/or violently. Their training as physicians in taking histories and in conducting physical examinations has provided them with the skills to investigate the background of the decedents and the scenes and circumstances surrounding events of their injuries and death. Their broad post graduate education in pathology has provided them a deep understanding of disease and injury and the skills in laboratory methodology ranging from the autopsy to microscopy to microbiology to firearms examination in order to conduct the appropriate examinations to corroborate and/or contradict their historical, clinical and scene findings. Only they have the education and training to direct their examinations to obtain as much information and evidence as possible in anticipation of a myriad of known and also unknown and yet unasked questions.

The primary and most extensively employed laboratory examination in forensic medicine is the autopsy. As the first issue of the *American Journal of Forensic Medicine and Pathology* pointed out in its first article, medical examiners are the only physicians performing any significant number of autopsies and medical examiner offices remain the last bastion of this examination upon which so much of western medicine has been founded. How much of our professional activity do we medical examiners wish to relegate and/or delegate to paraprofessionals is a fundamental question facing us and The National Association of Medical Examiners, which is the organization founded to represent and nurture us who are the professionals involved in the medicolegal investigation of death.

As first conceived in Massachusetts and New York City, the Medical Examiner System was to have physicians conducting all the investigations and examinations. The first two state medical examiner systems (Maryland and Virginia) still utilize physicians to investigate the scenes and perform external examinations and decide in conjunction with the forensic pathologists which cases need autopsies. A few systems in small jurisdictions still have physicians investigate all types of deaths. But for a variety of reasons, more recently founded medical examiner systems in large jurisdictions have utilized lay investigators with a variety of backgrounds to do most of the scene and background investigation with input from the medical examiners on certain types of cases. The use of non-physicians as investigators has led to the establishment of an affiliate section within NAME, thus acknowledging the use and acceptance of non-medically trained personnel to act as investigators.

Now the question arises as to how much the physician-forensic pathologists wish to relegate the all important laboratory examination - the autopsy - to paraprofessionals and, thus, how much we physicians wish to forfeit our own professionalism and become managers of technicians. To what degree should paraprofessionals conduct the post mortem examination? Since the medico-legal

autopsy is a one shot opportunity to obtain vital information for answering all the anticipated and unanticipated questions, it is imperative that all observations be accurate, precise, and well documented and that when an observation is made that may have pathophysiological implications concerning the events following the injury and leading to death that the autopsy prosector understand how to alter the procedure in an appropriate manner to obtain further information. You look for what you know and expect to find - at least, but are you always cognizant of the unexpected. Since the autopsy is essentially the sole opportunity for the best examination at the time when the evidence, and the body, will be in its best shape, then the person who knows the most should make the observations. This should be the physician trained in forensic pathology. Only a person with knowledge of pathophysiology learned in clinical medicine and through making external examinations in physical diagnosis ranging from subcutaneous emphysema to aberrant gunshot wounds can acquire the critical, learned eye needed to make the best observations with respect to anticipated and unanticipated questions. Despite all their education and experience, all practicing forensic pathologists daily confront challenges at the autopsy table; each new case brings a unique set of problems to be solved, often some lesion never before observed and interpreted and always a yet unasked question about their findings. How can we expect paraprofessionals without such extensive education and experience, operating unsupervised, to face these challenges successfully?

To exclude pathology assistants from participating in medical examiner offices at this time would be both impractical and unwise. To state categorically that only the medical examiner can perform all aspects of the autopsy is to fly in the face of the reality that in many medical examiner offices - some of which have been inspected and accredited by NAME - personnel with far less training than a pathology assistant are eviscerating and dissecting. The guidelines for accreditation need to address that problem. What we hope to make clear is that the medical examiner - the

professional - should be in charge. All activities - and most particularly the autopsy - should be performed under the supervision of the pathologist-medical examiner. If for whatever reason - mass disaster, sudden loss of personnel, etc, the physician pathologist cannot perform all facets of the autopsy, whatever functions are relegated to the pathology assistant must be done under the medical examiner's supervision. All dissections are to be performed under the direction of the pathologist-medical examiner. Anything less than that is unprofessional.

Although these guidelines were formulated for pathology assistants with a master's degree, we feel that they should be applied to all those individuals, whether termed dieners, autopsy assistants, autopsy technicians, etc., who perform any or all the tasks described in these guidelines. Moreover, and perhaps more importantly, the committee feels that the guidelines be presented to the Accreditation Committee of NAME and be incorporated into the Accreditation Checklist. By doing this NAME will be upgrading the level of expertise of these individuals and assuring quality performance in the autopsy suite and other areas of medical examiner offices. Again the critical issue is assuring that the pathologist medical examiner sets the standards and their implementation in all facets of death investigation. At this critical juncture in the history of medicine when strong societal forces are reducing the professional level of many aspects of the practice of medicine, we pathologist-medical examiners must acknowledge that we are the last professionals to perform autopsies in the total context of medicine and society, that is, with an understanding of pathophysiology, an appreciation of clinical medicine, and an awareness of the legal, public, and personal implications of what we do. Paraprofessionals simply do not have that expertise. The fact remains that both physician and pathology assistants exist solely for economic reasons; they are cheaper than physicians. As professionals - and all that word entails - we pathologist-medical examiners cannot afford to cheapen our endeavors. Only by insisting on high standards of the

autopsy will we be able to maintain our professional standing and, thus, provide accurate and precise information about deaths to society, whether in the courtroom or the consultation room. Unless we are willing to take this stand we will both be selling society short and also in the process cutting our own professional throats.

In addition to these utilitarian reasons for the pathologist-medical examiner to assume full responsibility for investigating deaths and, in particular, to oversee, if not directly perform, all autopsies, the professional physician has the moral obligation to do so. Otherwise we cannot speak truthfully under oath. Society and especially the courts expect us to do so. As Doctor Edmund D. Pellegrino wrote in the first chapter of *Autopsy Performance and Reporting*, “Moral Obligations Concerning the Autopsy,” “Clearly, the nature of medical knowledge and the singular role in its stewardship assigned to the pathologist by the nature of the specialty impose special moral obligations with respect to the postmortem examiner.”¹ This comment was addressed primarily to the hospital based pathologist. How much more it applies to us medical examiners whose findings may affect the well being of family and friends of the victim and the freedom, and even the life, of one accused of perpetrating a homicide. To relegate such an awesome responsibility to those less well trained than a physician-pathologist would be immoral.

1. Pellegrino ED. Moral Obligations Concerning the Autopsy. In: Hutchins GM, ed. *Autopsy Performance and Reporting*. Northfield, IL: College of American Pathologists; 1990:7.

Guidelines for the Use of Pathology Assistants in Medico-legal Death Investigation

- I. Qualifications and credentials: For the purposes of these guidelines for the National Association of Medical Examiners (NAME), a Pathology Assistant is considered a paraprofessional who has a graduate (master's) degree in this specialty from a program accredited by the National Accrediting Agency for Clinical Laboratory Services in a recognized college or university in the United States or Dominion of Canada. These guidelines do not apply to the activities of dieners, laboratory technicians, mortuary attendants, etc., who have not had formal training and a degree from an accredited program. (Law Enforcement Status: Some jurisdictions may require persons collecting and handling evidence have law enforcement status, that is, have completed some minimal standards training and be sworn officers of the law. In such jurisdictions, the role of the pathology assistant may be constrained by those laws or the pathology assistant may need to have the required minimum standards training).
- II. Definition of Medical Examiner Office: For purposes of these guidelines a Medical Examiner's Office is defined as a public agency, that is, an governmental entity supported by the taxpayer citizens, established by law for the purpose of investigating sudden unexpected, violent and other deaths as defined by that law and in the jurisdiction covered by that law. These guidelines also apply to pathology groups and individual pathologists who contract with a governmental agency to perform all medicolegal autopsies in a given jurisdiction. These guidelines do not apply to such pathology groups and individual pathologists who occasionally perform medicolegal autopsies, but it is hoped that these pathologists will use them. A medical examiner is defined as a physician-pathologist with special training in

forensic pathology (preferably certified in anatomic and forensic pathology by the American Board of Pathology) charged with the investigation of sudden, unexpected and violent deaths as defined by the laws in the jurisdiction in which the pathologist serves in this capacity.

- III. Duties as a Morgue Attendant: Most of these duties are outlined in the Standards for Inspection and Accreditation of a Modern Medicolegal Death Investigative System of NAME.
 - A. Accepting and releasing bodies: Maintains security in morgue. Able to document condition of body upon arrival at the examining or storage facility if the body is not in a secure pouch. Documents and secures personal effects and valuables.
 - B. Weighs and measures bodies.
 - C. Fingerprints bodies: After the pathologist has examined the body and performed ancillary tests such as obtaining evidence of gunshot residue.
 - D. Removal of clothing and personal effects: This is done in the presence of the pathologist or as directed by written protocol.
 - E. Radiography: Must be proficient in the taking and developing of radiographs. When these are taken is at the discretion of the pathologist.
- IV. Investigative Duties: As a lay investigator, the pathology assistant gathers information about scenes, circumstances surrounding the fatal event and the history of the victim. An outline of these activities is in The Standards for Inspection and Accreditation of A Modern Medicolegal Systems of NAME (pages 14 and 15). The investigations are supervised and the reports reviewed by the medical examiner.
 - A. Information gatherers: The investigator receives the initial call reporting a death and makes the decision as to whether the case is a medicolegal one or not. In cases of uncertainty the

pathology assistant contacts the medical examiner on call. As much initial data as possible about the case is obtained in this initial telephone call.

B. Scene Investigations: The pathology assistant investigator attends scenes according to the policy of the office. The medical examiner visits the scene of each homicide or suspicious death and other scenes according to office policy.

C. Evidence Collection: The background and capabilities of the pathology assistant and office and law enforcement policy will determine the role in evidence collection, for example, written guidelines should indicate whether the investigator enters the chain of evidence by bringing items such as knives etc. to the medical examiner's office or whether this will be left to the law enforcement officer.

V. Assistant at Examinations:

A. Prepares autopsy suite for examinations, for example, has gloves, aprons, shields, instruments ready for the medical examiner.

B. Health and safety: The pathology assistant knows and adheres to all the standards of health and safety with respect to chemical, biological and physical agents (including radiation) established by the various accreditation (College of American Pathology) and governmental (OSHA) agencies.

C. Radiography: The pathology assistant should be skilled in taking and developing radiographs of bodies and cognizant of all the safety regulations applicable to taking radiographs.

D. Removal of clothing and personal effects: Depending upon the type of case, this should be done under the direct supervision of the pathologist.

E. Labeling specimen containers of all varieties: Containers for toxicological specimens, trace evidence, bullets, tissues for microscopic sections, etc. should be labeled appropriately and

initialed by the pathologist.

- F. Evidence collection and storage: The pathology assistant assists the medical examiner, the law enforcement officer, and/or criminalist to observe, document, retain and, if appropriate, store evidence.
- G. Examinations: As stated in The Standards for Inspection and Accreditation of a Modern Medicolegal Investigative System of NAME, "The pathologist should perform the complete examination, personally observing all findings so that his interpretations may be sound" (page 19). The complete examination includes inspection of the body externally with and without clothing, making the primary incisions, an in vitro inspection of the organs, body cavities and cranium, removal of the organs from the body and an ex situ dissection of the organs. The pathology assistant assists in examinations but always under the direct supervision of the medical examiner, who must be physically present at each examination.
 - 1. External examinations (Inspections): The pathology assistant assists the pathologist in moving the body and documentation of the findings through recording data and taking photographs.
 - 2. Internal examination and dissections:
 - a. The pathology assistant helps with the evisceration under the direct guidance of the pathologist, who must be physically present at the autopsy table where the procedure is performed. On cases for which the medical examiner wishes to have the organs removed *en bloc*, the pathology assistant may under the direction of the pathologist perform the necessary operation. The pathology assistant may incise the scalp and saw the cranium. The pathologist should remove the brain. In cases of suspected craniocerebrum trauma in an infant or child the pathologist should consider

undertaking the entire process.

- b. Whenever feasible, the medical examiner performs all dissections. Under the medical examiner's supervision, the pathology assistant performs procedures such as inflating lungs, perfusing coronary arteries, incising the intestines, etc.
 - c. The medical examiner takes tissue for microscopic examination and reviews and interprets all slides.
3. Reports: The medical examiner creates all autopsy reports, indicating the role the pathology assistant played in the examination. If the pathology assistant does more than incising the scalp and sawing the calvarium, then the report should include exactly what the pathology assistant did. If for whatever reason, the medical examiner is not in attendance during portions of the examination, the report should document this absence and what parts of the examination the pathology assistant without direct supervision conducted. NAME strongly recommends that the medical examiner remain in attendance throughout the entire examination.

VI. Disposition of the body: Office policy

- A. Funeral Homes: The pathology assistant should take all information about releasing the body and convey information about when the body will be released, the nature and extent of injuries, if indicated, the presence of infectious agents, etc. The pathology assistant should coordinate the release of the body and personal effects to the funeral homes.
- B. Assists families in dealing with vital statistics for death certificates.

VII. Communication with concerned parties and the public:

- A. Families: The pathology assistant who interacts with the next of kin of the deceased should have training in dealing with the bereaved while at the same time accomplishing the task of

investigation.

1. Initial contacts with families: The pathology assistant must obtain the information in the most tactful but direct manner possible. The pathology assistant must be aware as to whether the family has been notified about the death prior to contacting them.
2. At the scene: The pathology assistant must exhibit professionalism.
3. After the examination: The more contact there is with the family, the more information the medical examiner can learn about the case. All discussions about the findings at the autopsy should, if possible, be done by the medical examiner.

B. Law Enforcement

1. At the scene: Obtain all pertinent information for the medical examiner and make the examiner aware of the nature of the case as assessed by law enforcement.
2. At the post mortem examination: All interpretations of the findings at the autopsy are to be made by the medical examiner.
3. Follow up examination: As much as feasible, the medical examiner should discuss the findings and conclusions with the lead investigator.

C. Attending physicians and hospitals: The medical examiner should deal with attending physicians and hospital personnel.

D. Funeral Homes: The pathology assistant should convey information about when the body will be released, the nature and extent of injuries, if indicated, the presence of infectious agents, etc. The pathology assistant should coordinate the release of the body and personal effects to the funeral homes.

E. Attorneys:

1. District or Prosecuting Attorney: All communications about the cause and manner of

death and pertinent evidence must be done by the medical examiner.

2. Defense attorneys: The same.
 3. Attorneys on civil cases: The same.
- F. The media: Only the medical examiner and/or an appropriate designee (particularly if the office is fortunate enough to have a spokesperson adroit at handling the media) should communicate with the public media.
- G. Other: The office should have a policy about what information can and should be released. In some systems, the findings are a matter of public record. In other systems, the autopsy report and findings are considered a medical document and a private matter. The medical examiner must decide who releases such information.
- VIII. Witness status and testimony: The pathology assistant may have to testify to matters of fact and to the chain of evidence. The medical examiner should be the only person qualified to offer opinions.
- IX. Administration: Depending upon the background, interest and education of the pathology assistant and the size of the medical examiner's office, the pathology assistant can assume a variety of administrative roles. A logical role is administrator of the morgue and autopsy service. In some offices, the pathology assistant may serve as an investigator or even as a chief investigator. In certain instances and with the right qualifications, the pathology assistant could become the administrator for the entire medical examiner's office.

In relatively small offices the pathology assistant may assume multiple roles as morgue attendant, autopsy assistant, investigator and administrator. All work is, however, to be done under the direct guidance and supervision of the medical examiner.