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To Whom It May Concern:

In 1958, when Oregon's present death investigation statute was conceived, the Medical Investigation Program was a new concept. The Legislature established the system with no local precedent, few other model state programs and no experienced physicians to operate it.

The law defined the State Medical Investigation operation basically as a coordination and supervision of separate county systems. State support initially was poorly delineated and no effective State Office was established to provide this support. Not until 1963 was the State (Chief) Medical Investigator position filled. State autopsy support was not substantial until 1969 when the system first included Multnomah County and became fully integrated and operational.

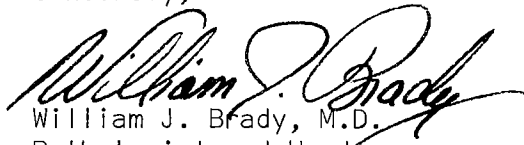
Now, in 1971-72, the State System is complete, fully staffed and able to operate as a strong department. The laws needed to operate this program may obviously differ from those haltingly established a new program.

While there are a number of "State Medical Examiner Systems", none closely resemble ours. Maryland and Virginia have strong central State Offices - convenient in Maryland's small area and expensive in Virginia. Other State Programs are either embryonic or significantly handicapped by piecemeal statutes or under financing. Oregon stands almost alone in having an organized, well financed, well staffed system with a sound law set in the basic concept of trained, readily available State support of locally controlled County Offices.

This proposed law revision is built on this concept of State support of the local programs and if enacted may well serve as a model for other States.

We have come this far only because the Legislature has strongly supported us. We hope, again with your support, to finish the job.

Sincerely,


William J. Brady, M.D.
Pathologist and Head
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WJB/slf

DEFINITIONS

Death requiring investigation means death occurring in one of the circumstances set forth in ORS _____ (Section VI A)

Medical Investigator means the Chief Medical Investigator, a Deputy Chief Medical Investigator, a County or District Medical Investigator or Assistant County or District Medical Investigator.

Pathologist means a physician licensed by the Oregon State Board of Medical Examiners who is engaged in the full time practice of the medical specialty of Pathology.

Cause of death means the primary or basic disease process or injury ending life.

Manner of death means the designation of the probable mode of production of the cause of death.

Approved laboratory means a laboratory approved by the Chief Medical Investigator as competent to perform the blood sample analysis required by ORS _____ (Section _____)

Highway means a highway as defined in Subsection 2 of ORS 483.010.

II. Medical Investigator Advisory Board

A. Purpose

There shall be established a State Medical Investigator Advisory Board for the purpose of supervising and guiding the operation of the Medical Investigator program in Oregon.

B. Qualifications of Members

The State Medical Investigator Advisory Board shall consist of five members appointed by the Governor and shall include:

--The Chairman of the Department of Anatomic Pathology at the University of Oregon Medical School.

--The Superintendent of the State Police

--The State Public Health Officer

--A Pathologist

--An attorney - at - law.

C. Appointments, terms and vacancies.

The Superintendent of the State Police, the Chairman of the Department of Pathology at the University of Oregon Medical School and the State Public Health Officer shall be members of the Board so long as they hold their respective positions. The terms of other members of the Advisory Board shall be for four years except that the appointment of the Pathologist in 1974 shall be for two years.

D. Compensation and expenses.

A member is entitled to compensation and expenses as provided in ORS 292.495

E. Chairman and Meetings

The Chairman of the Department of Anatomic Pathology at the University Of Oregon Medical School shall serve as Chairman of the Advisory Board.

The Advisory Board shall meet annually at a time and a place determined by the Chairman. The Chairman may call a special meeting of the Board upon not less than one week's written notice to all members. A quorum shall consist of the chairman and two other Board members.

F. Authority

1. The Board shall establish all of the qualifications of the Chief Medical Investigator, Deputy Chief Medical Investigators, County/District Medical Investigators and Asst. Medical Investigators. These qualifications shall be filed in the Chief Medical Investigator's Office.
2. The Board shall appoint the Chief Medical Investigator.
3. Subject to ORS 240.555 the Board may discharge the Chief Medical Investigator.
4. Before its submission to the Department of Human Resources, the budget of the State Medical Investigator's Office must be approved by the Board.

G. Duties

1. The Board annually shall review the Chief Medical Investigator's report (ORS _____) (Section VI,C,3) and examine the operation of his office.

COMMENTARY

Section II

A. Summary:

The present Medical Investigation Advisory Board is restructured here. Its' authority and duties are defined and expanded and its' membership reduced from seven to five.

B. Derivation:

The purpose, composition and operation of the Board are taken from ORS 146.070, the Post-Mortem Examinations Act, #321 of 1969 in State of Arkansas, Public Act #669 of 1969 in Connecticut, and particularly Article 22, Chapter 369 of the Maryland Annotated Code. The authority and duties are derived basically from the Model Standards Act and the codes of Maryland and Connecticut.

C. Relationship to existing law:

The Board has worked well, but giving it increased power should allow the program to be significantly influenced by this "honorary commission of disinterested persons aware of the problems involved." The power to appoint the Chief Medical Investigator and approve the Medical Investigator's Budget insures that the office will be responsive to this Board. Qualifications of the Chief Medical Investigator and County Medical Investigator are best established and kept current by this group. Its' makeup is reduced to five people with the time and interest to closely supervise the office.

III. State Medical Investigator's Office

A. Purpose and Organization

There shall be established within the Department of Human Resources the State Medical Investigator's Office for the purpose of directing and supporting the Medical Investigation program in Oregon.

B. Personnel

1. The State office shall be headed by the Chief Medical Investigator.
2. The Chief Medical Investigator may employ one principal assistant in the Unclassified State Service.
3. Subject to the State Merit System Law, the Chief Medical Investigator may employ other personnel to fill or discharge personnel from positions established by the Legislature for the State Medical Investigator's Office.

C. Duties

The State Medical Investigator's Office shall:

1. Maintain appropriate and complete records on all deaths requiring investigation occurring in Oregon.
Any responsible person, for a sound reason, may examine and obtain copies of any Medical Investigation Report, autopsy or laboratory test ordered by a Medical Investigator.
2. Maintain accurate records of all active Medical Investigators, Assistant Medical Investigators, Deputies and pathologists designated under ORS _____ (Section IV, A 2,3.)
3. Monthly transmit to the Motor Vehicles Division of the State Dept. of Transportation a report for the preceeding calendar month all of the information obtained under Section _____ of this act.

COMMENTARY

Section III

A. Summary:

The total control of the Board of Health and State Health Officer over the State Medical Investigator's Office is removed and the office's duties are delineated.

B. Derivation:

Model Post Mortem Examinations Act, Section 2. ORS 146.040 & 146.050.

C. Relationship to existing law.

As a matter of actual operation since 1963, the Board Health and State Health Officer have allowed the State Medical Investigator's Office to operate under the direction of the Chief Medical Investigator. This change would recognize the present method of operation.

This section also confirms the impartial availability of its records, (see ORS 146.560) a concept basic to the system as an unbiased recorder of scientific findings from which conclusions are formed. Should the District Attorney wish to control access to information on a criminal investigation he (rather than the Medical Investigator) may order the autopsy and other examinations in which case the material would be exempt from this section.

The Department of Motor Vehicles, to meet federal standards in highway safety, has requested Section III C 3 and VI C 3.

IV. Chief Medical Investigator

A. Authority

1. With the approval of the Medical Investigator Advisory Board, the Chief Medical Investigator shall appoint each Deputy Chief Medical Investigator.

The Chief Medical Investigator shall appoint each County or District Medical Investigator.

2. The Chief Medical Investigator shall designate those pathologists authorized to perform autopsies for the State Medical Investigator Program.

3. All expenditures or transfers of monies from the budget approved for his office by the Legislature must be approved by the Chief Medical Investigator.
4. Distribution of monies from the State Medical Investigator's budget for partial reimbursement of each County's autopsy expenditure requires the approval of the Chief Medical Investigator.
5. The Chief Medical Investigator, upon written request, may obtain a report of any police agency of Oregon when needed to assist him in the investigation of a death requiring investigation.
6. The Chief Medical Investigator, after conducting a reasonable and thorough investigation, may complete and file a Medical Investigator death certificate on a person whose body is apparently destroyed.
7. The Chief Medical Investigator may order a body exhumed for an autopsy in a death requiring investigation.

B. Duties

1. The Chief Medical Investigator shall assist and advise County/District Medical Investigators in the performance of their duties.
2. The Chief Medical Investigator shall serve as administrative head of the State Medical Investigator's Office.
3. The Chief Medical Investigator shall submit an annual report to the Medical Investigator Advisory Board detailing the activities and accomplishments of the State and each county office in the preceeding year as well as a cost analysis of each office.
4. The Chief Medical Investigator shall perform autopsies, when, in his opinion, they are needed, in persons whose deaths require investigation.
5. The Chief Medical Investigator shall conduct training programs for the County/District Medical Investigators, and law enforcement agencies on request.

COMMENTARY

Section IV

A. Summary:

This section, the most thoroughly revised in the statute, codifies the present duties of the Chief Medical Investigator detailing and expanding his authority.

B. Derivation:

ORS 146.050, 146.310 and experience of Chief Medical Investigator.

C. Relationship to existing law:

1. Authority -

The Chief Medical Investigator's job is presently a position considered to require a skilled and experienced physician. His actual duties, however, are largely implied or assumed and he lacks statutory control of some basic parts of his office operation. He can now direct investigations, order autopsies and appoint County Medical Investigators, (ORS 146.310 sec 2, ORS 146.420, ORS 146.430 sec 2, and ORS 146.470) probably designate pathologists (ORS 146.040 sec 5) but he lacks control of his own budget, cannot order a suspicious death exhumed and upon occasion can not file a death certificate. Subsections A-3 thru A-7 expand these administrative powers so that his signature would be required to expend monies budgeted for his office. In addition if necessary, he may order an exhumation and in rare instances certify a body lost at sea or destroyed by an explosion. These increases in administrative authority would balance his present professional authority (added to the original statutes in '65) and administrative responsibility.

Section IV (CONT.)

C. Relationship to existing law:

2. Duties -

Presently the Chief Medical Investigator's (implied) duties include:

- a. Administration of his office and the State program, b. Service - autopsies and court appearances, c. Teaching. This subsection codifies this triad.

V. Organization of the County Office

A. Purpose

In each county there shall be a Medical Investigator's Office for the purpose of investigating and certifying the cause and manner of deaths requiring investigation. Two or more counties, with the approval of the Board of Commissioners of each county, may form a district office.

B. Personnel

1. In each county or district, there shall be a County or District Medical Investigator who shall be the administrative head of the county or district Medical Investigator's Office.
 - a. The County/District Medical Investigator shall be appointed by the Chief Medical Investigator.
 - b. The qualifications of the County/District Medical Investigator shall be set as in ORS _____.
 - c. If no other physician residing in the county is willing to serve as Medical Investigator, the County Health Officer or District Attorney shall act as County Medical Investigator until the vacancy is filled.
2.
 - a. When a county or district has a population of 200,000 or more persons according to the latest Federal Census, the Chief Medical Investigator may appoint a Deputy Chief Medical Investigator for that county or district who shall head the Medical Investigator's Office and shall have the same duties and authority as a County/District Medical Investigator.
 - b. The compensation of the Deputy Chief Medical Investigator shall be paid by the State.
 - c. The services of the Deputy Chief Medical Investigator may be contracted by the State Dept. of Human Resources.

d. Contracts under this section may be terminated by either party at any time by written notice to the other party to the agreement, and upon termination of the appointment of the Deputy Chief Medical Investigator.

3. Each County/District Medical Investigator may appoint one or more Assistant Medical Investigators to assist him in carrying out the functions of his office.

The qualifications of an Asst. Medical Investigator shall be as outlined in ORS _____ (Section II, F 1.)

The County/District Medical Investigator shall designate an Asst. Medical Investigator to be the acting Medical Investigator at such times as the County/District Medical Investigator is not able to act, or in the event that his office becomes vacant.

4. The County/District Medical Investigator may appoint one or more Deputy Medical Investigators to assist him in the performance of his duties.

a. A Deputy Medical Investigator may investigate deaths.

b. A Deputy Medical Investigator may authorize the removal of a deceased person from the apparent place of death.

c. The Deputy Medical Investigator may not authorize embalming, may not order a post mortem examination and may not certify the cause and manner of death.

5. Subject to applicable provisions of any county civil service law, each County/District Medical Investigator may employ such other personnel as he deems necessary to operate his office.

C. Finances

1. In counties of less than 200,000 population according to the latest Federal Census, the County/District Medical Investigator and Assistant Medical Investigator shall be paid by the County for their services in a manner agreed upon by the parties concerned.
2. All expenses of equipping, maintaining and operating any county Medical Investigator's Office shall be paid by the County from funds available for such purpose except for provisions in Section 4.
3. Investigation expenses.
 - a. All expenses incurred for an investigation shall be paid by the county of death if known.
 - b. If the county of death is not known, expenses will be paid by the county where the body was found.
 - c. If, in an emergency, the body is placed on a conveyance and removed to another county and is dead on arrival, the county from which the body was originally removed shall pay the expenses pursuant to the investigation.
4. In counties under 200,000 population one half or less of the costs of post mortem examinations ordered under ORS _____ may be annually paid by the State from funds appropriated for such purpose upon the approval of the Chief Medical Investigator. If funds available for this payment are insufficient to meet one half or less of these costs, even proportional payments to the counties shall be made.

D. Duties

1. Each County Office shall maintain complete records of their investigation of a death requiring investigation.
2. Each County Medical Investigator's Office shall forward copies of all Medical Investigator reports to the State Medical Investigator's Office as soon as possible after death.

3. Each County Medical Investigator's Office shall maintain a current accurate list of all licensed funeral homes located in the county. Bodies of persons whose death requires investigation not claimed by responsible friends or next of kin shall be sent to these funeral homes for holding in a manner deemed fair and equitable by the Court of the County or Board of County Commissioners. In these cases, the sheriff or Medical Investigator shall immediately attempt to locate next of kin or friend to take charge of the body.
4. Each County Office shall report in writing to the State Medical Investigator's Office the name of each Assistant and Deputy Medical Investigator at the time of the appointment.

COMMENTARY

Section V

A. Summary:

This organizational structure remains exactly as at present but is more clearly codified. District programs may now be formed. Impartial treatment of funeral homes is required.

B. Derivation:

Existing statutes : ORS 146.316, .320, .330, .340, .350, .420, .560, and .565.

C. Relationship to existing law:

Most subsections are worded as in the present ORS 146 or if rephrased are intended to retain the intent of the existing statutes. Now, throughout most of Oregon, "rotation lists" of local funeral homes are maintained by Medical Investigator Offices. This established principle of impartiality is important and should be formally codified.

VI. County/District Medical Investigator

A. General Authority

1. The following deaths shall immediately be reported to the County/
District Medical Investigator who shall investigate each and cer-
tify their cause and manner:
 - a. Deaths apparently homicidal or under suspicious or unknown
circumstances.
 - b. Deaths in any prison, penal institution or while in police custody. ✓
 - c. Deaths suspected of being related to the use of drugs, intoxicants, ✓
or chemicals.
 - d. Deaths by accident or suicide or following injury.
 - e. Deaths by disease, injury or toxic agent during or arising from
employment.
 - f. Maternal deaths following abortion.
 - g. Deaths in persons not under the care of a physician during the
period immediately previous to death.

- h. Deaths related to disease which might constitute a threat to public health.
 - i. Where a death certificate has been signed, but circumstances indicate to the Medical Investigator that further investigation may be necessary to determine the cause or manner of death.
2. The following deaths shall be immediately reported to the County/District Medical Investigator but need not be certified by him:
 - a. Deaths in which a person was admitted to a hospital or institution for less than 24 hours before death.
 3. The District Attorney shall also be immediately notified by the County/District Medical Investigator of deaths in 1a, 1b, and 1c of above.
 4. Any person supervising an institution caring for the ill or helpless shall cooperate with the Medical Investigator as under ORS. _____.
- These officials and all peace officers, District Attornies, physicians, embalmers and other persons shall promptly notify the County/District Medical Investigator of all unreported deaths requiring investigation.

B. Specific Authority

1. Post mortem examinations.

A Medical Investigator or the District Attorney may order an autopsy performed in a death requiring investigation.

 - a. This autopsy authorization shall allow the pathologist to removed and retain body tissues necessary or advisable for scientific purposes.
 - b. If a post-mortem examination is ordered, the Medical Investigator shall obtain the services of a pathologist who is authorized. A pathologist may not receive compensation for performing the autopsy if, as Medical Investigator, he ordered the autopsy.

- c. The Medical Investigator may in any death requiring investigation order samples of blood or urine removed for laboratory analysis.
2. Removal of the body, effects or weapons without consent, prohibited.
 - a. No human body or bodyd suspected of being human dying under circumstances suggesting that this is a death requiring investigation, shall be removed from the place where the death occurred without the permission of a Medical Investigator or the District Attorney having first been obtained.
 - b. No embalming, cleansing of the surfaces of the body or other alteration of the appearance or state of the body, clothing or personal effects, shall be effected until the permission of the Medical Investigator or District Attorney has been obtained.
3. Right to enter or close premises.
 - a. the Medical Investigator or Deputy Medical Investigator may enter any room, dwelling or building, or other place in which the body or evidence of the circumstnace of death requiring investigation may be found.
 - b. To preserve evidence, the Medical Investigator or Deputy Medical Investigator may take under their custody and close or lock any room, dwelling, building or other enclosure for a period of not more than five (5) days.
 - c. If a death requiring investigation occurs in the open, the Medical Investigator or Depity Medical Investigator may rope off or otherwise specity any area which they consider necessary to preserve evidence.

- d. The Medical Investigator or Deputy Medical Investigator may forbid the entrance of any person except peace officers or the District Attorney, into the area specified under Subsection 2 or 3 of this section.
 - e. No authorized person shall trespass upon the areas specified in Subsection b or c of this Section.
4. Upon written request, a Medical Investigator may obtain a certified copy of a death certificate he completed on a death requiring investigation without charge from the State Board of Vital Statistics.

C. Duties

1. Certification of Death
- a. In deaths requiring investigation, the Medical Investigator must complete and file certificates of death as required by ORS _____.
 - b. A Medical Investigator death certificate must be completed and filed on every person whose death required investigation. This death certificate or a photocopy thereof may serve as a burial, cremation, calcination or removal permit.
2. An investigation report shall be completed and filed in the county office by the appropriate Medical Investigator as soon as possible after being notified of a death requiring investigation.
3. In all deaths of persons 14 years of age or older involved in a motor vehicle accident, occurring not later than five hours after the accident, the Medical Investigator shall direct that a blood sample and/or urine be removed and analyzed by an approved laboratory as soon as possible. These materials shall be analyzed for the presence of ethyl alcohol in the blood and if deemed necessary, the presence of narcotic drugs or dangerous drugs. These laboratory

analyses shall be part of the Medical Investigator file
as required in ORS _____

4. Burial of Deceased

- a. When a County or District Medical Investigator investigates the death of a person whose body is not claimed by a friend or relative within 10 days of the date of death, the sheriff, or in counties having a population of 400,000 the Medical Investigator, shall dispose of the body according to the provisions of ORS 91.170 - 97.210.
- b. If the sheriff or county or District Medical Investigator retains possession of the body, he may either order it cremated, calcinated or plainly and decently buried.

5. Disposition of property or money of deceased.

- a. When the sheriff or Deputy Chief Medical Investigator takes possession of the body under ORS _____, he shall make separate inventories of the money and other personal possessions found on the body or in the possession of the deceased.
- b. He shall verify the inventories and shall return the money and inventory to the Board of County Commissioners.
 1. The County/District Medical Investigator or District Attorney may temporarily retain possession of any property in which in his opinion is useful in establishing the cause or manner of death.
- c. Upon the delivery of the money to the treasurer, he shall place it to the credit of the county. On the delivery of other personal possessions to the county court or Board of County Commissioners if it is of any value and not earlier than 30 days from the date of death, the Court or Board shall order it to be sold as upon execution.

After deducting expenses entailed, the proceeds shall be delivered to the County Treasurer and by him placed to the credit of the county.

Property which in the judgement of the County Court or Board of County Commissioners is of no value, shall be destroyed upon the order and under the supervision of the Board or Court.

- d. When a legally qualified executor, administrator or surviving spouse or next of kin claims the money, or within 30 days of the date of death the personal property, the Treasurer shall deliver the money of the deceased person to this legally qualified person and the County Court or Board of Commissioners shall deliver the property to this legally qualified person.
- e. Any expenses incurred by the county in burying or transporting the body may be deducted from the amount of money or value of the other personal property before it is delivered to a claimant.
- f. If the money of the deceased is not claimed within seven years and is presumed abandoned under ORS 198.336, the Court or Board shall order the money to be paid as required by law.

COMMENTARY

Section VI

A. Summary:

The general authority of the Medical Investigator is partially rephrased and all jail and drug deaths now require investigation. His specific authority remains nearly identical to that at present. To his present duties, statutory and implied, is added a required fatal motor vehicle accident blood-alcohol test.

B. Derivation:

ORS 146.030, 146.430 to 146.470, 146.565 to 146.610.

C. Relationship to existing law:

The present statutes give the Medical Investigator adequate general authority which is clarified and reorganized here. Specific areas of authority differ in almost no way from the present law except that the implied authority of the Medical Investigator to order blood-alcohol tests is stated. Pathologists now regularly save tissue for microscopic study and this procedure should be recognized. The requirement to complete a Medical Investigator death certificate - a different death certificate from that used in non-Medical Investigator deaths - is now implied in ORS 146 but not stated. The purpose of this certificate - to permit burial - becomes statutory in the proposed revision. To qualify for Federal Highway Safety Standards, a blood-alcohol test should be mandatory in traffic accidents. Cremation may now be authorized in unclaimed indigents.

Subsection C-5 is abridged directly from ORS 146.590 to 146.610.

PENALTIES:

1. Violation of VI A, VI B 2a, VI B 2d and VI C 1b is punishable upon conviction by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding six months, or both.

2. Any licensed embalmer judged guilty by the State Board of Funeral Directors and Embalmers of willfully violating Section VI A 4, VI B 2a or VI B 2b may have his license revoked by this Board.

COMMENTARY

Section VII

To existing penalties is added a possibility of an embalmer losing his license by willfully ignoring the Medical Investigator.