

Added by Acts 2003, 78th Leg., ch. 894, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 392 (S.B. 1469), Sec. 1, eff. June 17, 2005.

SUBCHAPTER B. DUTIES PERFORMED BY MEDICAL EXAMINERS

Art. 49.25. MEDICAL EXAMINERS

Sec. 1. OFFICE AUTHORIZED. Subject to the provisions of this Act, the Commissioners Court of any county having a population of more than one million and not having a reputable medical school as defined in Articles 4501 and 4503, Revised Civil Statutes of Texas, shall establish and maintain the office of medical examiner, and the Commissioners Court of any county may establish and provide for the maintenance of the office of medical examiner. Population shall be according to the last preceding federal census.

Sec. 1-a. MULTI-COUNTY DISTRICT; JOINT OFFICE. (a) The commissioners courts of two or more counties may enter into an agreement to create a medical examiners district and to jointly operate and maintain the office of medical examiner of the district. The district must include the entire area of all counties involved. The counties within the district must, when taken together, form a continuous area.

(b) There may be only one medical examiner in a medical examiners district, although he may employ, within the district, necessary staff personnel. When a county becomes a part of a medical examiners district, the effect is the same within the county as if the office of medical examiner had been established in that county alone. The district medical examiner has all the powers and duties within the district that a medical examiner who serves in a single county has within that county.

(c) The commissioners court of any county which has become a part of a medical examiners district may withdraw the county from the district, but twelve months' notice of withdrawal must be given to the commissioners courts of all other counties in the district.

Sec. 2. APPOINTMENTS AND QUALIFICATIONS. (a) The commissioners court shall appoint the medical examiner, who serves at the pleasure of the commissioners court. A person appointed as the medical examiner must be:

(1) a physician licensed by the Texas Medical Board; or

(2) a person who:

(A) is licensed and in good standing as a physician in another state;

(B) has applied to the Texas Medical Board for a license to practice medicine in this state; and

(C) has been granted a provisional license under Section 155.101, Occupations Code.

(b) To the greatest extent possible, the medical examiner shall be appointed from persons having training and experience in pathology, toxicology, histology and other medico-legal sciences.

(c) The medical examiner shall devote the time and energy necessary to perform the duties conferred by this Article.

Sec. 3. ASSISTANTS. The medical examiner may, subject to the approval of the commissioners court, employ such deputy examiners, scientific experts, trained technicians, officers and employees as may be necessary to the proper performance of the duties imposed by this Article upon the medical examiner.

Sec. 4. SALARIES. The commissioners court shall establish and pay the salaries and compensations of the medical examiner and his staff.

Sec. 5. OFFICES. The commissioners court shall provide the medical examiner and his staff with adequate office space and shall provide laboratory facilities or make arrangements for the use of existing laboratory facilities in the county, if so requested by the medical examiner.

Sec. 6. DEATH INVESTIGATIONS. (a) Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county, in the following cases:

1. When a person shall die within twenty-four hours after admission to a hospital or institution or in prison or in jail;

2. When any person is killed; or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;

3. When the body or a body part of a person is found, the cause or circumstances of death are unknown, and:

(A) the person is identified; or

(B) the person is unidentified;

4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;

5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;

6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Section 193.005, Health and Safety Code, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest;

7. When the person is a child who is younger than six years of age and the death is reported under Chapter 264, Family Code; and

8. When a person dies who has been attended immediately preceding his death by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Section 193.004, Health and Safety Code. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the medical examiner of the county in which the death occurred, and request an inquest.

(b) The inquests authorized and required by this Article shall be held by the medical examiner of the county in which the death occurred.

(c) In making such investigations and holding such inquests, the medical examiner or an authorized deputy may administer oaths and take affidavits. In the absence of next of kin or legal representatives of the deceased, the medical examiner or authorized deputy shall take charge of the body and all property found with it.

Sec. 6a. ORGAN TRANSPLANT DONORS; NOTICE; INQUESTS. (a) When death occurs to an individual designated a prospective organ donor for transplantation by a licensed physician under circumstances requiring the medical examiner of the county in which death occurred, or the medical examiner's authorized deputy, to hold an inquest, the medical examiner, or a member of his staff will be so notified by the administrative head of the facility in which the transplantation is to be performed.

(b) When notified pursuant to Subsection (a) of this Section, the

medical examiner or the medical examiner's deputy shall perform an inquest on the deceased prospective organ donor.

Sec. 7. REPORTS OF DEATH. (a) Any police officer, superintendent or general manager of an institution, physician, or private citizen who shall become aware of a death under any of the circumstances set out in Section 6(a) of this Article, shall immediately report such death to the office of the medical examiner or to the city or county police departments; any such report to a city or county police department shall be immediately transmitted to the office of the medical examiner.

(b) A person investigating a death described by Subdivision 3(B) of Section 6(a) shall report the death to the missing children and missing persons information clearinghouse of the Department of Public Safety and the national crime information center not later than the 10th working day after the date the investigation began.

(c) A superintendent or general manager of an institution who reports a death under Subsection (a) must comply with the notice and reporting requirements of Article 49.24. The office of the attorney general has the same powers and duties provided the office under that article regarding the dissemination and investigation of the report.

Sec. 8. REMOVAL OF BODIES. When any death under circumstances set out in Section 6 shall have occurred, the body shall not be disturbed or removed from the position in which it is found by any person without authorization from the medical examiner or authorized deputy, except for the purpose of preserving such body from loss or destruction or maintaining the flow of traffic on a highway, railroad or airport.

Sec. 9. AUTOPSY. (a) If the cause of death shall be determined beyond a reasonable doubt as a result of the investigation, the medical examiner shall file a report thereof setting forth specifically the cause of death with the district attorney or criminal district attorney, or in a county in which there is no district attorney or criminal district attorney with the county attorney, of the county in which the death occurred. If in the opinion of the medical examiner an autopsy is necessary, or if such is requested by the district attorney or criminal district attorney, or county attorney where there is no district attorney or criminal district attorney, the autopsy shall be immediately performed by the medical examiner or a duly authorized deputy. In those cases where a complete autopsy is deemed unnecessary by the medical examiner to ascertain the cause of death, the medical examiner may perform a limited

autopsy involving the taking of blood samples or any other samples of body fluids, tissues or organs, in order to ascertain the cause of death or whether a crime has been committed. In the case of a body of a human being whose identity is unknown, the medical examiner may authorize such investigative and laboratory tests and processes as are required to determine its identity as well as the cause of death. In performing an autopsy the medical examiner or authorized deputy may use the facilities of any city or county hospital within the county or such other facilities as are made available. Upon completion of the autopsy, the medical examiner shall file a report setting forth the findings in detail with the office of the district attorney or criminal district attorney of the county, or if there is no district attorney or criminal district attorney, with the county attorney of the county.

(b) A medical examination on an unidentified person shall include the following information to enable a timely and accurate identification of the person:

- (1) all available fingerprints and palm prints;
- (2) dental charts and radiographs (X-rays) of the person's teeth;
- (3) frontal and lateral facial photographs with scale indicated;
- (4) notation and photographs, with scale indicated, of a significant scar, mark, tattoo, or item of clothing or other personal effect found with or near the body;
- (5) notation of antemortem medical conditions;
- (6) notation of observations pertinent to the estimation of time of death; and
- (7) precise documentation of the location of burial of the remains.

(c) A medical examination on an unidentified person may include the following information to enable a timely and accurate identification of the person:

- (1) full body radiographs (X-rays); and
- (2) hair specimens with roots.

Sec. 10. DISINTERMENTS AND CREMATIONS. When a body upon which an inquest ought to have been held has been interred, the medical examiner may cause it to be disinterred for the purpose of holding such inquest.

Before any body, upon which an inquest is authorized by the provisions of this Article, can be lawfully cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the medical examiner. Before

any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the medical examiner of the county in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. It shall be the duty of the medical examiner to determine whether or not, from all the circumstances surrounding the death, an autopsy is necessary prior to issuing a certificate under the provisions of this section. No autopsy shall be required by the medical examiner as a prerequisite to cremation in case death is caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox. All certificates furnished to the owner or operator of a crematory by any medical examiner, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body. A medical examiner is not required to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

Sec. 10a. WAITING PERIOD BETWEEN DEATH AND CREMATION. The body of a deceased person shall not be cremated within 48 hours after the time of death as indicated on the regular death certificate, unless the death certificate indicates death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, or unless the time requirement is waived in writing by the county medical examiner or, in counties not having a county medical examiner, a justice of the peace. In a public health disaster, the commissioner of public health may designate other communicable diseases for which cremation within 48 hours of the time of death is authorized.

Sec. 10b. DISPOSAL OF UNIDENTIFIED BODY. If the body of a deceased person is unidentified, a person may not cremate or direct the cremation of the body under this article. If the body is buried, the investigating agency responsible for the burial shall record and maintain for not less than 10 years all information pertaining to the body and the location of burial.

Sec. 11. RECORDS.

(a) The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report

and detailed findings of the autopsy, if any, shall be a part of the record. Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. The records may not be withheld, subject to a discretionary exception under Chapter 552, Government Code, except that a photograph or x-ray of a body taken during an autopsy is excepted from required public disclosure in accordance with Chapter 552, Government Code, but is subject to disclosure:

(1) under a subpoena or authority of other law; or

(2) if the photograph or x-ray is of the body of a person who died while in the custody of law enforcement.

(b) Under the exception to public disclosure provided by Subsection (a), a governmental body as defined by Section 552.003, Government Code, may withhold a photograph or x-ray described by Subsection (a) without requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code. This subsection does not affect the required disclosure of a photograph or x-ray under Subsection (a)(1) or (2).

Sec. 12. TRANSFER OF DUTIES OF JUSTICE OF PEACE. When the commissioners court of any county shall establish the office of medical examiner, all powers and duties of justices of the peace in such county relating to the investigation of deaths and inquests shall vest in the office of the medical examiner. Any subsequent General Law pertaining to the duties of justices of the peace in death investigations and inquests shall apply to the medical examiner in such counties as to the extent not inconsistent with this Article, and all laws or parts of laws otherwise in conflict herewith are hereby declared to be inapplicable to this Article.

Sec. 13. USE OF FORENSIC ANTHROPOLOGIST. On discovering the body or body part of a deceased person in the circumstances described by Subdivision 3(B) of Section 6(a), the medical examiner may request the aid of a forensic anthropologist in the examination of the body or body part. The forensic anthropologist must hold a doctoral degree in anthropology with an emphasis in physical anthropology. The forensic anthropologist shall attempt to establish whether the body or body part is of a human or animal, whether evidence of childbirth, injury, or disease exists, and the sex, race, age, stature, and physical anomalies of the body or body part. The forensic anthropologist may also attempt

to establish the cause, manner, and time of death.

Sec. 13A. FEES. (a) A medical examiner may charge reasonable fees for services provided by the office of medical examiner under this article, including cremation approvals, court testimonies, consultations, and depositions.

(b) The commissioners court must approve the amount of the fee before the fee may be assessed. The fee may not exceed the amount necessary to provide the services described by Subsection (a).

(c) The fee may not be assessed against the county's district attorney or a county office.

Sec. 14. PENALTY. (a) A person commits an offense if the person knowingly violates this article.

(b) An offense under this section is a Class B misdemeanor.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1969, 61st Leg., p. 1033, ch. 336, Sec. 1, eff. May 27, 1969; Acts 1969, 61st Leg., p. 1619, ch. 500, Sec. 1, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 1165, ch. 270, Sec. 1, eff. Aug. 30, 1971; Acts 1975, 64th Leg., p. 1826, ch. 562, Sec. 1, eff. Sept. 1, 1975.

Sec. 6a amended by Acts 1989, 71st Leg., ch. 1205, Sec. 1, eff. June 16, 1989; Sec. 1 amended by Acts 1991, 72nd Leg., ch. 597, Sec. 58, eff. Sept. 1, 1991; Sec. 6, subds. 6, 7 amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(66), (67), eff. Sept. 1, 1991; Sec. 10 amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(69), eff. Sept. 1, 1991; Sec. 6 amended by Acts 1995, 74th Leg., ch. 255, Sec. 5, eff. Sept. 1, 1995; amended by Acts 1995, 74th Leg., ch. 878, Sec. 4, eff. Sept. 1, 1995; Secs. 6, 7, 9 amended by and Sec. 10b added by Acts 1997, 75th Leg., ch. 656, Sec. 6, eff. Sept. 1, 1997; Sec. 13 added by Acts 1997, 75th Leg., ch. 656, Sec. 6, eff. Sept. 1, 1997; Sec. 14 renumbered from Sec. 13 and amended by Acts 1997, 75th Leg., ch. 656, Sec. 6, eff. Sept. 1, 1997; Sec. 11 amended by Acts 1999, 76th Leg., ch. 607, Sec. 2, eff. Sept. 1, 1999; Sec. 6(a) amended by Acts 2003, 78th Leg., ch. 826, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1295, Sec. 6; Sec. 7(a) amended by Acts 2003, 78th Leg., ch. 894, Sec. 3, eff. Sept. 1, 2003; Sec. 7(c) added by Acts 2003, 78th Leg., ch. 894, Sec. 3, eff. Sept. 1, 2003; Secs. 10, 10a amended by Acts 2003, 78th Leg., ch. 198, Sec.

2.191, eff. Sept. 1, 2003; Sec. 13 amended by Acts 2003, 78th Leg., ch. 826, Sec. 7, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1295, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. 1233), Sec. 8, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 22 (S.B. 336), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 25 (S.B. 457), Sec. 1, eff. September 1, 2013.

SUBCHAPTER C. INFORMED CONSENT FOR POSTMORTEM EXAMINATION OR AUTOPSY

Art. 49.31. APPLICABILITY. This subchapter does not apply to an autopsy that:

(1) is ordered by the Texas Department of Criminal Justice or an authorized official of the department in accordance with Section 501.055, Government Code; or

(2) a justice of the peace or medical examiner determines is required under this chapter or other law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 950 (H.B. 1009), Sec. 2, eff. September 1, 2011.

Art. 49.32. CONSENT TO POSTMORTEM EXAMINATION OR AUTOPSY. (a) Except as provided by Subsection (b) of this article, a physician may not perform, or assist in the performance of, a postmortem examination or autopsy on the body of a deceased person unless the physician obtains the written informed consent of a person authorized to provide consent under Article 49.33 of this code. The consent must be provided on the form prescribed under Article 49.34 of this code.

(b) If, after due diligence, a physician is unable to identify or contact a person authorized to give consent under Article 49.33 of this code, the physician may, as authorized by a medical examiner, justice of the peace, or county judge, as appropriate, perform a postmortem examination or autopsy on the body of a deceased person not less than 24 hours and not more than 48 hours from the time of the decedent's death or the time the physician or other person took possession of the body.

Added by Acts 2011, 82nd Leg., R.S., Ch. 950 (H.B. 1009), Sec. 2, eff. September 1, 2011.

Art. 49.33. PERSONS AUTHORIZED TO CONSENT TO POSTMORTEM EXAMINATION OR AUTOPSY. (a) Subject to Subsections (b) and (c) of this article, consent for a postmortem examination or autopsy may be given by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(1) the spouse of the decedent;

(2) the person acting as guardian of the person of the decedent at the time of death or the executor or administrator of the decedent's estate;

(3) the adult children of the decedent;

(4) the parents of the decedent; and

(5) the adult siblings of the decedent.

(b) If there is more than one member of a class listed in Subsection (a) (2), (3), (4), or (5) of this article entitled to give consent to a postmortem examination or autopsy, consent may be given by a member of the class unless another member of the class files an objection with the physician, medical examiner, justice of the peace, or county judge. If an objection is filed, the consent may be given only by a majority of the members of the class who are reasonably available.

(c) A person may not give consent under this article if, at the time of the decedent's death, a person in a class granted higher priority under Subsection (a) of this article is reasonably available to give consent or to file an objection to a postmortem examination or autopsy.

Added by Acts 2011, 82nd Leg., R.S., Ch. 950 (H.B. 1009), Sec. 2, eff. September 1, 2011.

Art. 49.34. POSTMORTEM EXAMINATION OR AUTOPSY CONSENT FORM. The commissioner of state health services, in consultation with the Texas Medical Board, shall prescribe a standard written consent form for a postmortem examination or autopsy. The form must:

(1) include the name of the hospital or other institution and the department that will perform the examination or autopsy;

(2) include a statement that the removal from the deceased

person's body and retention by the physician of organs, fluids, prosthetic devices, or tissue may be required for purposes of comprehensive evaluation or accurate determination of a cause of death;

(3) provide the family of the deceased person with an opportunity to place restrictions or special limitations on the examination or autopsy;

(4) include a separate section regarding the disposition of organs, fluids, prosthetic devices, or tissue after the examination or autopsy, including a prioritized list of the persons authorized to control that disposition, as provided by Chapter 692A, Health and Safety Code;

(5) provide for documented and witnessed consent;

(6) allow authorization for the release of human remains to a funeral home or individual designated by the person giving consent for the postmortem examination or autopsy;

(7) include information regarding the rights described by Article 49.35 of this code;

(8) list the circumstances under which a medical examiner is required by law to conduct an investigation, inquest, or autopsy under Article 49.25 of this code;

(9) include a statement that the form is required by state law; and

(10) be written in plain language designed to be easily understood by the average person.

Added by Acts 2011, 82nd Leg., R.S., Ch. 950 (H.B. 1009), Sec. 2, eff. September 1, 2011.

Art. 49.35. RIGHT TO NONAFFILIATED PHYSICIAN. (a) A person authorized to consent to a postmortem examination or autopsy under Article 49.33 of this code may request that a physician who is not affiliated with the hospital or other institution where the deceased person died:

(1) perform the postmortem examination or autopsy at another hospital or institution; or

(2) review the postmortem examination or autopsy conducted by a physician affiliated with the hospital or other institution where the deceased person died.

(b) A representative of the hospital or other institution shall inform the person of the person's right to request the performance or review of a postmortem examination or autopsy by a nonaffiliated physician under Subsection (a) before the person consents to the postmortem examination or autopsy.

(c) A person requesting a nonaffiliated physician to perform or review a postmortem examination or autopsy shall bear the additional costs incurred as a result of the nonaffiliated physician's performance or review of the examination or autopsy under Subsection (a) of this article.

Added by Acts 2011, 82nd Leg., R.S., Ch. 950 (H.B. [1009](#)), Sec. 2, eff. September 1, 2011.