

CHAPTER 49
STATE MEDICAL EXAMINER

Authority

N.J.S.A. 52:17B-80.

Source and Effective Date

R.1994 d.30, effective December 16, 1993.
See: 25 N.J.R. 5104(a), 26 N.J.R. 484(a).

Executive Order No. 66(1978) Expiration Date

Chapter 49, State Medical Examiner, expires on December 16, 1998.

Chapter Historical Note

Chapter 49, State Medical Examiner, was filed and became effective prior to September 1, 1969.

1983 Revisions: Amendments became effective December 19, 1983 as R.1983 d.589. See: 15 N.J.R. 135(a), 15 N.J.R. 2172(d).

1988 Revisions: This chapter was readopted pursuant to Executive Order No. 66(1978) effective December 16, 1988 as R.1989 d.35. See: 20 N.J.R. 2687(a), 21 N.J.R. 171(b).

Pursuant to Executive Order No. 66(1978), Chapter 49 was readopted as R.1994 d.30. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 1. AUTOPSIES

13:49-1.1 Mandatory autopsies

(a) In the absence of an objection based on the religious beliefs of the decedent, autopsies shall be performed in all cases of human death occurring in the following circumstances; however, the autopsy should be the least intrusive procedure consistent with proper forensic practice (as defined in N.J.A.C. 13:49-1.8) and the duty to preserve organs for transplant:

1. All cases of apparent homicidal deaths;
2. All deaths occurring under suspicious or unusual circumstances;
3. All deaths from causes which might constitute a threat to public health;
4. All deaths of inmates of jail, prison, or penitentiary and all prisoners and suspects who were in the process of being detained, arrested or transported by guards, police and law enforcement or court officers unless the suspected cause of death is a known condition for which the inmate, prisoner or suspect is hospitalized and being treated at the time of death, and the medical examiner's investigation, review of hospital records, and examination of the decedent's body permit him or her to determine the cause of death beyond a reasonable doubt without an autopsy, and no other issues of public interest compel his or her conclusion that an autopsy is necessary;
5. All infants and children suspected of having been abused or neglected and children suspected of having died from sudden infant death syndrome (SIDS);
6. In all cases wherein the State Medical Examiner, the Attorney General, any assignment judge of the Superior Court, or the county prosecutor (of the county wherein the injury occurred or where the decedent expired) requests an autopsy;
7. In all cases otherwise under the Medical Examiner's jurisdiction where the decedent has been identified as a potential donor pursuant to P.L. 1969, c.161 (N.J.S.A. 26:6-57 et seq.), the medical examiner shall perform any necessary examination, autopsy or analysis of any organ or tissue in a manner and within a time period compatible

with preservation of the organ or tissue for the purpose of transplantation.

(b) Upon notification that a deceased person whose death is under investigation is a donor under the Uniform Anatomical Gift Act, P.L. 1969, c.161 (N.J.S.A. 26:6-57 et seq.), the medical examiner shall commence an immediate investigation concerning the cause of death. The medical examiner, with the cooperation of the police, prosecutors and medical personnel, shall complete the preliminary investigation concerning cause of death within a time period compatible with preservation of organs for transplantation.

1. The medical examiner shall have access to and may request all necessary information, including copies of medical records, laboratory test results, x-rays and other diagnostic results. This information should be provided as expeditiously as possible, through reasonable means, to the medical examiner so the medical examiner can continue the investigation into the cause of death and complete the examination within a time period compatible with the preservation of the organ or tissue for purposes of transplantation.

2. The medical examiner shall release all requested organs and tissue which in his or her opinion are not involved in the cause of death (as defined in N.J.A.C. 13:49-1.8).

3. Should the medical examiner believe that a specific organ or area of tissue is involved in the cause of death, the medical examiner shall attend the removal procedure in order to make a final determination and allow recovery to proceed, request a biopsy or deny removal of said organ if in the medical examiner's judgment those tissues or organs may be involved in the cause of death.

4. The medical examiner or designee shall explain in writing the reasons for determining that organs or tissues for which authorization for removal was denied may be involved in the cause of death and shall include the explanation in the records and provide a copy to the organ procurement agency.

5. The medical examiner shall have access to medical records, pathology reports and to the body of the donor, post-removal. In the event an organ is not transplanted and there is no consent to donate the organ for research, the medical examiner shall be notified. The medical examiner who performed the autopsy shall make the determination as to whether and when the organ should be returned.

6. The harvesting team shall complete a surgical report form. Subsequently, information on the immediate functioning of the transplanted organ(s) and pathology reports, if available, shall be provided to the medical examiner.

7. If the medical examiner releases the organ for procurement, a pre-mortem blood sample (labelled and dated with time of blood draw), sample of catheterized urine, sample of bile if the liver is recovered for transplantation, and a biopsy specimen in fixative of the organs procured, as requested, shall be delivered to the medical examiner at the time of the transport of the body to the medical examiner's office.

Amended by R.1983 d.589, effective December 19, 1983.
See: 15 N.J.R. 135(a), 15 N.J.R. 2172(d).

In (a), deleted old 3 and added new 4 and 5.

Amended by R.1989 d.110, effective February 21, 1989.

See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).

Emergency Amendment, R.1994 d.571, effective October 21, 1994 (expired December 20, 1994).

See: 26 N.J.R. 4447(a).

Adopted Concurrent Proposal, R.1995 d.36, effective December 20, 1994.

See: 26 N.J.R. 4447(a), 27 N.J.R. 380(a).

13:49-1.2 Discretionary autopsies

(a) In the absence of an objection based on the religious beliefs of the decedent, autopsies may be performed when it appears in the discretion of the county medical examiner to be in the public interest to do so in all cases of human deaths occurring in the following circumstances:

1. All cases of violent deaths which are apparently suicidal or accidental, including but not limited to deaths due to thermal, chemical, electrical or radiation injury, except as enumerated in N.J.A.C. 13:49-1.1, Mandatory autopsies;

2. All deaths caused by disease, disability or infirmity which are not readily recognizable;

3. All deaths of inmates as defined in N.J.S.A. 52:17B-86(f) occurring in institutions maintained in whole or in part at the expense of the State or county when the inmate was not hospitalized therein for organic disease;

4. All deaths related to diseases resulting from employment or from accidents while employed;

5. All deaths from motor vehicle collisions to include drivers, occupants, and pedestrians.

Amended by R.1983 d.589, effective December 19, 1983.

See: 15 N.J.R. 1351(a), 15 N.J.R. 2172(d).

In (a)5, added "occupants".

Amended by R.1989 d.110, effective February 21, 1989.

See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).

Amended by R.1994 d.30, effective January 18, 1994.

See: 25 N.J.R. 5104(a), 26 N.J.R. 484(a).

13:49-1.3 Jurisdiction between counties

(a) When the medical examiner of the county wherein the death occurred determines that the incident which is suspected of being the cause of death has occurred in a New Jersey county other than his or her own, he or she may transfer jurisdiction to that county medical examiner immediately for the continuance of the investigation. Any county medical examiner to whom jurisdiction is transferred pursuant to this section shall immediately take charge of the continuance of the investigation and shall perform any examinations, autopsies or other functions required by the State Medical Examiner Act.

(h) The physician medical examiner shall not delegate to any lay medical investigator any task or function for which the lay medical investigator has not been trained or for which the lay medical investigator is not qualified. The collection of specialized medical information is the responsibility of medically trained personnel.

(i) The responsibility of the medical examiner to investigate the medical cause of death as set forth in this subchapter, shall also oblige him to cooperate and coordinate with the county prosecutor in the conduct of a criminal investigation.

R.1983 d.589, effective December 19, 1983.
See: 15 N.J.R. 1351(a), 15 N.J.R. 2172(d).
Amended by R.1989 d.110, effective February 21, 1989.
See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).
Substantially amended.
Amended by R.1994 d.30, effective January 18, 1994.
See: 25 N.J.R. 5104(a), 26 N.J.R. 484(a).

SUBCHAPTER 6. DEATH CERTIFICATION

13:49-6.1 Medical examiner certification and amendments

(a) It shall be the responsibility of the medical examiner to require the proper identification of the decedent for the death certificate. This may be accomplished by visual recognition of the decedent's body by next of kin or friend when the decedent's body is in recognizable condition. "Friend" means any person who, prior to the decedent's death, maintained close contact with the decedent sufficient to render that person knowledgeable with the decedent's activities, and who presents a sworn statement or affidavit stating the facts and circumstances upon which the claim that the person is a friend is based. Identification may also be made by a combination of scientific means, circumstances, and personal effects if the deceased is not in recognizable condition.

(b) It shall be the responsibility of the medical examiner who issues a death certificate to conduct personally a complete physical examination of at least the external surfaces of the unclothed dead body and to make a full and complete description of this examination and to file it with the Office of the State Medical Examiner. The clothing and personal effects shall be viewed and an inventory prepared, and a receipt shall be obtained upon release from the medical examiner's custody.

(c) The medical examiner shall personally sign the death certificate after examining the body, as required by law, and shall be responsible for the truthfulness and accuracy of the medical information herein contained.

(d) It shall be the responsibility of the medical examiner to supply all additional information required by the State Registrar for the completion of pending death certificates

within a reasonable period not to exceed 120 days, on the forms provided by the Registrar, except for extenuating circumstances.

Amended by R.1989 d.110, effective February 21, 1989.
See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).
Substantially amended.

13:49-6.2 Notification of death from contagious, infectious, or communicable diseases

(a) When a medical examiner who makes the actual determination and pronouncement of death determines or has actual knowledge that the deceased person was infected with human immunodeficiency virus (HIV) or hepatitis B virus or that the deceased person suffered from acquired immune deficiency syndrome (AIDS), AIDS related complex (ARC) or any contagious, infectious, or communicable disease as may be determined by the Commissioner of the Department of Health, he or she shall immediately place with the remains written notification of the condition and shall provide written notification to the funeral director who is responsible for the handling and disposition of the body.

(b) Notification provided funeral directors pursuant to this section shall be made on a form prescribed or designated by the State Medical Examiner and shall contain a portion which provides for acknowledgment of such notification by the funeral director or his or her authorized representative.

(c) Whenever the medical examiner establishes a new diagnosis or confirms a suspected diagnosis of Human Immunodeficiency Virus (HIV) infection by autopsy, he or she shall complete the HIV Confidential Case Report of the New Jersey Department of Health, and forward it to:

New Jersey Department of Health
CN 363
Trenton, New Jersey 08625-0363

New Rule, R.1989 d.110, effective February 21, 1989.
See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).
Amended by R.1994 d.30, effective January 18, 1994.
See: 25 N.J.R. 5104(a), 26 N.J.R. 484(a).

SUBCHAPTER 7. ELIGIBILITY STANDARDS

13:49-7.1 Eligibility standards of county medical examiner, deputy or assistant county medical examiner, and forensic pathologist

(a) Any person appointed or reappointed to the position of county medical examiner pursuant to N.J.S.A. 52:17B-83, deputy or assistant county medical examiner pursuant to N.J.S.A. 52:17B-84, or forensic pathologist authorized by the State Medical Examiner pursuant to N.J.S.A. 52:17B-88, on or after the effective date of this subchapter shall be a physician fully licensed in the State of New Jersey of

recognized ability and good standing in his or her community, and shall have met the following standards relating to prior training and experience:

1. Successful completion of a minimum of 30 hours of basic education in death investigation conducted or sponsored by the Armed Forces Institute of Pathology, the American Society of Clinical Pathologists, the College of American Pathologists, the National Association of Medical Examiners, or an institution of higher education or other agency approved by the State Medical Examiner.

i. In addition, all persons appointed or reappointed to the position of county medical examiner pursuant to N.J.S.A. 52:17B-83 on or after the effective date of this subchapter who are to serve in the capacity of "County Medical Examiner", in addition to the above educational requirement, shall have completed a minimum of 20 hours of advanced education in death investigation conducted or sponsored by the Armed Forces Institute of Pathology, the American Society of Clinical Pathologists, the College of American Pathologists, the National Association of Medical Examiners, or an institution of higher education or other agency approved by the State Medical Examiner.

2. Successful completion of a basic course conducted by the Office of the State Medical Examiner on the laws, rules and regulations relating to the New Jersey Medical Examiner System.

3. Successful completion of seven full days of internship training at the New Jersey State Medical Examiner Office or equivalent approved by said office.

(b) Any person appointed to or holding the position of county medical examiner, deputy or assistant county medical examiner or designated forensic pathologist on or after the effective date of these amendments shall enroll in and complete a program of continuing medical education in the forensic sciences for a minimum of 20 hours of American Medical Association Category I credit, every two years while holding said position.

(c) Any person appointed to or holding the position of county medical examiner, deputy or assistant county medical examiner or designated forensic pathologist on or after the effective date of this subsection shall enroll in and complete a supplemental program conducted by the Office of the State Medical Examiner on amendments to the laws, rules and regulations relating to the New Jersey Medical Examiner System or for any other necessary training. The State Medical Examiner shall conduct such courses when necessary.

(d) Only those county medical examiners, deputy or assistant county medical examiners or forensic pathologists authorized by the State Medical Examiner as competent to perform autopsies pursuant to N.J.S.A. 52:17B-88, shall perform such autopsies. Such person shall be qualified in one of the following categories:

1. Pathologists who shall have completed a two-year program of supervised training in anatomical pathology approved by the Accreditation Council for Graduate Medical Education of the American Medical Association are eligible to conduct death investigations and to perform postmortem examinations and autopsies under the direct guidance and supervision of a designated pathologist who has already been qualified to practice in an unsupervised capacity in the New Jersey Medical Examiner System, pursuant to (d)2 below and under the general supervision of the State Medical Examiner as provided by law. The reports prepared by this person shall be countersigned by the designated pathologist who has supervised the autopsy.

2. Pathologists who qualify as anatomic pathologists as defined in (d)1 above, and who have at least one year of formal supervised training in a forensic pathology program approved by the Accreditation Council for Graduate Medical Education, or two years supervised experience in forensic pathology in a situation comparable with that of a program accredited by the Accreditation Council for Graduate Medical Education are eligible to conduct death investigations and to perform postmortem examinations and autopsies under the general supervision of the State Medical Examiner as provided by law.

3. Physicians of any speciality who, by virtue of their experience in a medical examiner system, are able to produce a portfolio of personal case studies acceptable to the State Medical Examiner and who, further, are able to demonstrate by interview a knowledgeable approach to forensic problems may be declared eligible to conduct death investigations and to perform postmortem examinations and autopsies under the general supervision of the State Medical Examiner as provided by law.

(e) Nothing in this section is intended to prevent a qualified person from serving both as a county medical examiner or deputy or assistant county medical examiner and simultaneously as a designated pathologist authorized by the State Medical Examiner to perform autopsies pursuant to N.J.S.A. 52:17B-88.

Amended by R.1989 d.110, effective February 21, 1989.
See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).

Substantially amended.

Amended by R.1994 d.30, effective January 18, 1994.
See: 25 N.J.R. 5104(a), 26 N.J.R. 484(a).

SUBCHAPTER 8. ENFORCEMENT

13:49-8.1 Enforcement of eligibility standards

(a) If any person appointed to or holding the position of, or being a candidate for appointment to, the position of county medical examiner, deputy or assistant county medical examiner or forensic pathologist, authorized by the State Medical Examiner to perform autopsies, pursuant to N.J.S.A. 52:17B-88, does not meet any of the eligibility standards set forth in N.J.A.C. 13:49-7, the State Medical Examiner shall declare him or her ineligible to perform the duties prescribed in N.J.A.C. 13:49-7 and the person shall cease to perform those duties pending a hearing and final resolution. If any such person fails to comply with any other provisions of the State Medical Examiner Act or administrative rules pertaining thereto, the State Medical Examiner shall declare him or her ineligible to perform the duties prescribed in N.J.A.C. 13:49-7 and the person shall cease to perform those duties pending a hearing and final resolution.

(b) If any county medical examiner, deputy or assistant county medical examiner or forensic pathologist authorized by the State Medical Examiner to perform autopsies, pursuant to N.J.S.A. 52:17B-88, having met the eligibility stan-

dards set forth in N.J.A.C. 13:49-7, has been demonstrated professionally incompetent to perform the duties of his or her office, the State Medical Examiner shall declare him ineligible to perform the professional duties of his or her office, or shall restrict the level of professional duties in accordance with the demonstrated level of professional competence of the examiner.

(c) As soon as practicable but no later than seven days from the date of the declaration of ineligibility or restriction of the duties, the State Medical Examiner shall give written notice of the declaration of ineligibility or restriction to the governing body of the county which appointed or is considering appointment of the officer.

(d) Any proceeding brought under this subchapter shall provide the county medical examiner, deputy or assistant county medical examiner or designated forensic pathologist with notice of the charges against him or her and afford him or her an opportunity to be heard, which shall conform with the provisions applicable to contested cases set forth in the Administrative Procedure Act, P.L. 1968, c.410 (N.J.S.A. 52:14B-1 et seq.); P.L. 1978, c.67 (N.J.S.A. 52:14-1 et seq.), and N.J.A.C. 1:1.

Amended by R.1989 d.110, effective February 21, 1989.
See: 20 N.J.R. 2856(b), 21 N.J.R. 447(a).
Substantially amended.