

legality of imposing such a requirement and is not intended to suggest that applicants for licensure and for annual license renewal be fingerprinted.

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COUNTY MEDICAL EXAMINERS: Only licensed allopathic or osteopathic physicians may serve as county medical examiners.

DEPUTY COUNTY MEDICAL EXAMINERS: In counties having a population of 50,000 or more, only licensed allopathic or osteopathic physicians may serve as deputy county medical examiners.

DEPUTY COUNTY MEDICAL EXAMINERS: In counties having a population of 50,000 or less, licensed allopathic or osteopathic physicians, dentists, registered nurses or morticians may serve as deputy county medical examiners.

DEPUTY COUNTY MEDICAL EXAMINERS: Licensed dentists, registered nurses or morticians serving as deputy county medical examiners may not certify death.

Opinion No. 4836

January 30, 1975.

Honorable Joseph S. Mack
State Senator
The Capitol
Lansing, Michigan

You have asked my opinion regarding the following issue:

"I would like to have your opinion as to who may serve as a Medical Examiner, and in particular, who may serve as a Deputy Medical Examiner."

The offices of county medical examiner and deputy county medical examiner were established by 1953 PA 181; MCLA 52.201 *et seq*; MSA 5.953(1) *et seq*. Section 1 of that act provides as follows:

"The board of supervisors of each county of this state shall by resolution abolish the office of coroner, and appoint a county medical examiner to hold office for a period of 4 years. Should the office of county medical examiner become vacant before the expiration of the term of office, the board of supervisors may appoint a successor to complete the term of office. In counties having a civil service system, the appointment and tenure of the medical examiner shall be made in accordance with the provisions thereof. *County medical examiners shall be physicians licensed to practice within the state* and shall be residents of the county for which they are appointed or of a neighboring county. Two or more adjoining counties, by resolution of the respective boards of supervisors thereof, may enter into common

agreement to employ the same person to act as medical examiner for all of the counties." (Emphasis added.) MCLA 52.201; MSA 5.953(1)

Consequently, only persons who are licensed pursuant to the Medical Practice Act, 1973 PA 185; MCLA 338.1801 *et seq*; MSA 14.542(1) *et seq*, or the osteopathic act, 1903 PA 162; MCLA 338.101 *et seq*; MSA 14.571 *et seq*, may serve as county medical examiners. See 1 OAG, 1959-1960, No 3, 346, p 7 (January 26, 1959).

Sections 1a and 1b of 1953 PA 181, *supra*, provide the qualifications for deputy county medical examiners as follows:

"Sec. 1a. (1) The board of supervisors may appoint as a deputy county medical examiner any person meeting the qualifications as required by this section and approved by the county medical examiner.

"(2) In counties now or hereafter having a population of 50,000 or more, deputy county medical examiners shall be physicians licensed to practice within this state.

"(3) In counties now or hereafter having 50,000 population or less, deputy county medical examiners shall only be physicians, dentists, registered nurses or morticians licensed to practice in this state." MCLA 52.201a; MSA 5.953(1a)

"Sec 1b. Deputy county medical examiners shall be residents of the county from which they are appointed." MCLA 52.201b; MSA 5.953(1b)

In counties having a population of 50,000 or more, deputy county medical examiners must be physicians licensed to practice within this state pursuant to 1973 PA 185, *supra*, or 1903 PA 162, *supra*.

In counties having a population of 50,000 or less, deputy county medical examiners may be physicians licensed pursuant to the aforementioned acts; dentists licensed pursuant to the dentistry act, 1939 PA 122; MCLA 338.201 *et seq*; MSA 14.629(1) *et seq*; registered nurses licensed pursuant to the Nursing Practice Act, 1967 PA 149; MCLA 338.1151 *et seq*; MSA 14.694(1) *et seq*; or morticians licensed pursuant to the mortuary science act, 1949 PA 268; MCLA 338.861 *et seq*; MSA 14.509(1) *et seq*.

Your attention is directed to section 1c of 1953 PA 181, *supra*, which provides as follows:

"The county medical examiner shall be in charge of the office of the county medical examiner and may promulgate rules relative to the conduct of his office. The county medical examiner may delegate any functions of his office to a duly appointed deputy county medical examiner if the deputy county medical examiner is a licensed physician. *If the deputy county medical examiner is not a licensed physician, his functions shall be limited as provided by law.*" (emphasis added) MCLA 52.201c; MSA 5.953(1c)

Accordingly, as will be hereafter shown, dentists, registered nurses and morticians may not sign the medical certificate of death pursuant to section 9 of 1925 PA 343; MCLA 326.1 *et seq*; MSA 14.221 *et seq*.

Death is defined in *Black's Law Dictionary* (West Publishing Co 4th ed 1968) as follows:

"The cessation of life; the ceasing to exist; defined by physicians as a total stoppage of the circulation of the blood, and a cessation of the animal and vital functions consequent thereon, such as respiration, pulsation, etc." (p 488)

See *Smith v Smith*, 229 Ark 579; 317 SW2d 275 (1958), and *Thomas v Anderson*, 96 Cal App 2d 371; 215 P2d 478 (1950). It is apparent that the pronouncement of death requires an observation of *inter alia* the vital signs and a conclusion drawn therefrom. A diagnosis must be made to determine if the apparent absence of vital signs is merely the repressive effect of trauma or a disease condition. Such a diagnosis requires the sophisticated knowledge of medical science attributed by law solely to allopathic and osteopathic physicians, 1973 PA 185, *supra*, and 1903 PA 162, *supra*. See 1 OAG, 1959-1960, No. 3, 346, *supra*, in which it was stated:

"The duties prescribed by the act for county medical examiners contemplate performance by one with a broad medical training and knowledge. This would not include a chiropractor who is limited in his practice to misaligned or displaced vertebrae of the human spine. Osteopathy, however, is a system of treatment of physical ailment based on the theory that diseases are generally due to deranged mechanism of the joints, nerves, blood vessels and other tissues and can be remedied by manipulation of those parts.

"I am, therefore, of the opinion that the word 'physicians' in the county medical examiner act refers only to those licensed under the medical practice and osteopathic acts and does not refer to chiropractors." (pp 9-10)

Dentists, registered nurses and morticians not only lack the broad medical training and knowledge necessary to make the requisite diagnosis, but in the absence of their licensure pursuant to 1973 PA 185, *supra*, or 1903 PA 162, *supra*, would thereby undertake the practice of medicine contrary to law.

In summary, only allopathic or osteopathic physicians may serve as county medical examiners, or in counties having a population of 50,000 or more, as deputy county medical examiners. In counties having a population of 50,000 or less, allopathic or osteopathic physicians, dentists, registered nurses or morticians may serve as deputy county medical examiners. However, dentists, registered nurses or morticians may not certify death.

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