

# Chapter 146

## Investigation of Death

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### INVESTIGATION OF DEATHS

#### (Definitions)

**146.003 Definitions for ORS 146.003 to 146.189 and 146.710 to 146.992.** As used in ORS 146.003 to 146.189 and 146.710 to 146.992, unless the context requires otherwise:

- (1) “Approved laboratory” means a laboratory approved by the State Medical Examiner as competent to perform the blood sample analysis required by ORS 146.113 (2).
- (2) “Assistant district medical examiner” means a physician appointed by the district medical examiner to investigate and certify deaths within a county or district.
- (3) “Cause of death” means the primary or basic disease process or injury ending life.

(4) “Death requiring investigation” means the death of a person occurring in any one of the circumstances set forth in ORS 146.090.

(5) “Deputy medical examiner” means a person appointed by the district medical examiner to assist in the investigation of deaths within a county.

(6) “District medical examiner” means a physician appointed by the State Medical Examiner to investigate and certify deaths within a county or district, including a Deputy State Medical Examiner.

(7) “Law enforcement agency” means a county sheriff’s office, municipal police department and the Oregon State Police.

(8) “Legal intervention” includes an execution pursuant to ORS 137.463, 137.467 and 137.473 and other legal use of force resulting in death.

(9) “Manner of death” means the designation of the probable mode of production of the cause of death, including natural, accidental, suicidal, homicidal, legal intervention or undetermined.

(10) “Medical examiner” means a physician appointed as provided by ORS 146.003 to 146.189 to investigate and certify the cause and manner of deaths requiring investigation, including the State Medical Examiner.

(11) “Pathologist” means a physician holding a current license to practice medicine and surgery and who is eligible for certification by the American Board of Pathology.

(12) “Unidentified human remains” does not include human remains that are unidentified human remains that are part of an archaeological site or suspected of being Native American and covered under ORS chapters 97 and 390 and ORS 358.905 to 358.961. [1973 c.408 §1a; 1995 c.744 §17; 2007 c.500 §1]

**146.005** [1959 c.629 §8; 1965 c.221 §14; repealed by 1973 c.408 §35]

**146.010** [Amended by 1959 c.629 §16; renumbered 10.810]

(Administrative Provisions)

**146.015 State Medical Examiner Advisory Board; Department of State Police rules; appointment of State Medical Examiner.** (1) There is hereby established the State Medical Examiner Advisory Board.

(2) The advisory board shall make policies for the administration of ORS 146.003 to 146.189 and the Department of State Police shall make rules to effectuate such policies.

(3) The advisory board shall recommend the name or names of pathologists to the Superintendent of State Police from which the superintendent shall appoint the State Medical Examiner.

(4) The State Medical Examiner Advisory Board shall consist of 10 members appointed by the Governor and shall include:

(a) The Chairman of the Department of Anatomic Pathology at the Oregon Health and Science University, who shall be the chairperson of the board;

(b) The State Health Officer;

(c) A sheriff;

(d) A trauma physician recommended by the State Trauma Advisory Board;

(e) A pathologist;

(f) A district attorney;

(g) A funeral service practitioner and embalmer licensed by the State Mortuary and Cemetery Board;

(h) A chief of police;

(i) A member of the defense bar; and

(j) A member of the public at large.

(5) The persons described in subsection (4)(a) and (b) of this section shall serve as long as they hold their respective positions. The terms of the persons described in subsection (4)(c), (f) and (h) of this section shall be for four years, except that they shall become vacant if the person ceases to be a sheriff, district attorney or chief of police, respectively. The terms of the other members of the board shall be four years.

(6) A member of the advisory board is entitled to compensation and expenses as provided in ORS 292.495.

(7) The advisory board shall meet annually at a time and place determined by the chairperson. The chairperson or any four members of the board may call a special meeting upon not less than one week's notice to the members of the board.

(8) Six members of the board shall constitute a quorum. [1973 c.408 §2; 1995 c.744 §9]

#### **146.020** [Renumbered 10.820]

**146.025 Functions of board.** In addition to the duties set forth in ORS 146.015 the State Medical Examiner Advisory Board shall:

(1) Recommend to the Oregon Department of Administrative Services the qualifications and compensation for the positions of State Medical Examiner and Deputy State Medical Examiner.

(2) Recommend to the county courts the compensation of the district medical examiners and assistant district medical examiners.

(3) Recommend to district medical examiners and district attorneys the qualifications for deputy medical examiners.

(4) Approve or disapprove of a single district medical examiner's office for two or more counties as provided by ORS 146.065 (5).

(5) Recommend a proposed budget for the State Medical Examiner's office to the Department of State Police.

(6) Annually review the State Medical Examiner's report prescribed by ORS 146.055 and report to the Superintendent of State Police and to the State Board of Health regarding the operation of the State Medical Examiner's office. [1973 c.408 §3; 1995 c.744 §10]

#### **146.030** [1959 c.629 §10; 1965 c.221 §15; repealed by 1973 c.408 §35]

**146.035 State Medical Examiner; personnel; records; right to examine records.** (1) There shall be established within the Department of State Police the State Medical Examiner's office for the purpose of directing and supporting the state death investigation program.

(2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's program.

(3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or discharge other personnel of the State Medical Examiner's office.

(4) The State Medical Examiner's office shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Any parent, spouse, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117. The system described in ORS 192.517 (1) shall have access to reports described in this subsection as provided in ORS 192.517. [1973 c.408 §4; 1987 c.142 §1; 1995 c.504 §3; 1995 c.744 §8; 2003 c.14 §60; 2005 c.498 §1]

**146.040** [1959 c.629 §1; repealed by 1973 c.408 §35]

**146.045 Duties of State Medical Examiner.** (1) After consultation with the State Medical Examiner Advisory Board, the State Medical Examiner shall appoint each Deputy State Medical Examiner.

(2) The State Medical Examiner shall:

(a) Appoint and discharge each district medical examiner as provided by ORS 146.065 (2).

(b) Designate those pathologists authorized to perform autopsies under ORS 146.117 (2).

(c) Approve those laboratories authorized to perform the analyses required under ORS 146.113 (2).

(3) The State Medical Examiner may:

(a) Assume control of a death investigation in cooperation with the district attorney.

(b) Order an autopsy in a death requiring investigation.

(c) Certify the cause and manner of a death requiring investigation.

(d) Amend a previously completed death certificate on a death requiring investigation.

(e) Order a body exhumed in a death requiring investigation.

(f) Designate a Deputy State Medical Examiner as Acting State Medical Examiner.

(g) After a reasonable and thorough investigation, complete and file a death certificate for a person whose body is not found.

(4) Distribution of moneys from the State Medical Examiner's budget for partial reimbursement of each county's autopsy expenditures shall be made subject to approval of the State Medical Examiner.

(5) Within 45 days of receipt of information that a person is missing at sea and presumed dead, the State Medical Examiner shall determine whether the information is credible and, if so, complete and file a death certificate for the person presumed dead. If the information is determined not to be credible, the State Medical Examiner may continue the death investigation. [1973 c.408 §5; 2005 c.90 §1]

**146.050** [1959 c.629 §2; repealed by 1973 c.408 §35]

**146.055 Advice; autopsies; training programs; report.** (1) The State Medical Examiner shall assist and advise district medical examiners in the performance of their duties.

(2) The State Medical Examiner shall perform autopsies, if in the judgment of the State Medical Examiner such autopsy is necessary in any death requiring investigation, when requested by a medical examiner or district attorney.

(3) The State Medical Examiner shall regularly conduct training programs for the district medical examiners and law enforcement agencies.

(4) The State Medical Examiner shall submit an annual report to the State Medical Examiner Advisory Board detailing the activities and accomplishments of the state and each county office in the preceding year as well as a cost analysis of the office of the State Medical Examiner. [1973 c.408 §6]

**146.060** [1959 c.629 §3; repealed by 1973 c.408 §35]

**146.065 County and district medical examiners; appointment; Deputy State Medical Examiner.** (1) In each county there shall be a medical examiner for the purpose of investigating and certifying the cause and manner of deaths requiring investigation.

(2) Each district medical examiner shall be appointed by the State Medical Examiner with approval of the appropriate board or boards of commissioners and may be discharged by the State Medical Examiner without such approval.

(3) If the position of district medical examiner is vacant, the county health officer shall temporarily act as medical examiner in cooperation with the State Medical Examiner until the vacancy is filled.

(4) If the positions of district medical examiner and county health officer are both vacant, the district attorney shall temporarily act as medical examiner in cooperation with the State Medical Examiner until the vacancy is filled.

(5) Two or more counties, with the approval of the State Medical Examiner Advisory Board and commissioners of each county, may form a district medical examiner's office instead of an office for each such county.

(6) When a county or district has a population of 200,000 or more persons, the State Medical Examiner may, with the approval of the State Medical Examiner Advisory Board, appoint a Deputy State Medical Examiner for that county or district.

(7) The compensation of the Deputy State Medical Examiner shall be paid by the state from funds available for such purpose.

(8) The services of the Deputy State Medical Examiner may be contracted by the Department of State Police. These contracts may be terminated by either party at any time by written notice to the other party to the agreement and, upon termination, the appointment of such Deputy State Medical Examiner is terminated. [1973 c.408 §7; 1995 c.744 §11]

**146.070** [1959 c.629 §4; 1969 c.314 §8; repealed by 1973 c.408 §35]

**146.075 District office duties; personnel; expenses for certain duties; records and reports.** (1) The district medical examiner shall serve as the administrator of the district medical examiner's office. Subject to applicable provisions of a county personnel policy or civil service law, the district medical examiner may employ such other personnel as the district medical examiner deems necessary to operate the office.

(2) All expenses of equipping, maintaining and operating the district medical examiner's office, including the compensation of the district medical examiner and assistant district medical examiners, shall be paid by the county or counties of the district from funds budgeted for such purpose.

(3) When a district medical examiner also serves as county health officer, the county shall

separately budget the compensation and expenses to be paid for medical examiner's duties.

(4) All expenses of death investigations shall be paid from county funds budgeted for such purpose except that, in counties under 200,000 population upon the approval of the State Medical Examiner, one-half of the costs of autopsies ordered under ORS 146.117 shall be paid annually by the state from funds for such purpose. If funds available for this payment are insufficient to meet one-half of these costs, even proportional payments to the counties shall be made.

(5) Expenses of burial or other disposition of an unclaimed body shall be paid by the county where the death occurs, as provided by ORS 146.100 (2), in the manner provided by ORS 146.121 (4).

(6) Each district office shall maintain copies of the:

(a) Reports of death investigation by the medical examiner;

(b) Autopsy reports;

(c) Laboratory analysis reports; and

(d) Inventories of money or property of the deceased taken into custody during the investigation.

(7) Reports and inventories maintained by the district office shall be available for inspection as provided by ORS 146.035 (5).

(8) Copies of reports of death investigations by medical examiners and autopsy reports shall be forwarded to the State Medical Examiner's office.

(9) Each district office shall maintain current records of:

(a) All assistant district medical examiners appointed.

(b) Appointments of each deputy medical examiner appointed for the county or district.

(c) The name, address and director of each licensed funeral home located within the county or district.

(10) Each district office shall immediately in writing notify the State Medical Examiner's office of all appointments and resignations of their medical examiners. [1973 c.408 §8; 1987 c.142 §2]

**146.080 Assistant district medical examiner.** (1) Each district medical examiner may appoint one or more assistant district medical examiners.

(2) The qualifications of an assistant district medical examiner shall be prescribed by the State Medical Examiner Advisory Board.

(3) When delegated by the district medical examiner, an assistant district medical examiner shall:

(a) Assist the district medical examiner in investigating and certifying deaths.

(b) Have the authority and responsibility to investigate and certify deaths requiring investigation. [1973 c.408 §10]

**146.085 Deputy medical examiners.** (1) The district medical examiner shall appoint, subject to the approval of the district attorney and applicable civil service regulations, qualified deputy medical examiners, including the sheriff or a deputy sheriff and a member of the Oregon State Police for each county. Other peace officers may also be appointed as deputy medical examiners.

(2) The district medical examiner and the district attorney shall establish qualifications for deputy medical examiners.

(3) Each deputy medical examiner shall be individually appointed and the name of the deputy medical examiner shall be on file in the office of the district medical examiner.

(4) A deputy medical examiner shall investigate deaths subject to the control and direction of the district medical examiner or the district attorney.

(5) A deputy medical examiner may authorize the removal of the body of a deceased person from the apparent place of death.

(6) The deputy medical examiner may not authorize embalming, order a post-mortem examination or autopsy, or certify the cause and manner of death. [1973 c.408 §11]

**146.087** [1975 c.565 §1; renumbered 146.001]

**146.088 When medical examiner is officer or employee of public body.** A district medical examiner, deputy medical examiner, assistant district medical examiner or designated pathologist is deemed to be an officer or employee of a public body for purposes of ORS 30.260 to 30.300 while acting as a district medical examiner, deputy medical examiner, assistant district medical examiner or designated pathologist. [1995 c.744 §13]

**146.090 Deaths requiring investigation.** (1) The medical examiner shall investigate and certify the cause and manner of all human deaths:

(a) Apparently homicidal, suicidal or occurring under suspicious or unknown circumstances;  
(b) Resulting from the unlawful use of controlled substances or the use or abuse of chemicals or toxic agents;

(c) Occurring while incarcerated in any jail, correction facility or in police custody;

(d) Apparently accidental or following an injury;

(e) By disease, injury or toxic agent during or arising from employment;

(f) While not under the care of a physician during the period immediately previous to death;

(g) Related to disease which might constitute a threat to the public health; or

(h) In which a human body apparently has been disposed of in an offensive manner.

(2) As used in this section, "offensive manner" means a manner offensive to the generally accepted standards of the community. [1973 c.408 §12; 1979 c.744 §4; 1985 c.207 §1]

**146.095 Investigation; certification; report; training.** (1) The district medical examiner and the district attorney for the county where death occurs, as provided by ORS 146.100 (2), shall be responsible for the investigation of all deaths requiring investigation.

(2) The medical examiner shall certify the manner and the cause of all deaths which the medical examiner is required to investigate. The certificate of death shall be filed as required by ORS 432.307.

(3) The medical examiner shall make a report of death investigation to the State Medical Examiner as soon as possible after being notified of a death requiring investigation.

(4) Within five days after notification of a death requiring investigation, the medical examiner shall make a written report of the investigation and file it in the district medical examiner's office.

(5) The district medical examiner shall supervise the assistant district medical examiners and deputy medical examiners in cooperation with the district attorney.

(6) The district medical examiner shall regularly conduct administrative training programs for the assistant district medical examiners, deputy medical examiners and law enforcement agencies. [1973 c.408 §9]

**146.100 Where death considered to have occurred; notification of death required.** (1)

Death investigations shall be under the direction of the district medical examiner and the district attorney for the county where the death occurs.

(2) For purposes of ORS 146.003 to 146.189, if the county where death occurs is unknown, the death shall be deemed to have occurred in the county where the body is found, except that if in an emergency the deceased is moved by conveyance to another county and is dead on arrival, the death shall be deemed to have occurred in the county from which the body was originally removed.

(3) The district medical examiner or a designated assistant medical examiner for the county where death occurs shall be immediately notified of:

(a) All deaths requiring investigation; and

(b) All deaths of persons admitted to a hospital or institution for less than 24 hours, although the medical examiner need not investigate nor certify such deaths.

(4) No person having knowledge of a death requiring investigation shall intentionally or knowingly fail to make notification thereof as required by subsection (3) of this section.

(5) The district medical examiner or deputy medical examiner shall immediately notify the district attorney for the county where death occurs of all deaths requiring investigation except for those specified by ORS 146.090 (1)(d) to (g).

(6) All peace officers, physicians, embalmers, supervisors of penal institutions and supervisors of hospitals or institutions caring for the ill or helpless shall cooperate with the medical examiner by providing requested medical records, tissue samples and other materials necessary to conduct the death investigation and shall make notification of deaths as required by subsection (3) of this section. [1973 c.408 §13; 1985 c.207 §22; 1995 c.744 §14]

**146.103 Removal of body, effects or weapons prohibited without consent.** (1) In a death requiring an investigation, no person shall move a human body or body suspected of being human, or remove any of the effects of the deceased or instruments or weapons related to the death without the permission of a medical examiner, deputy medical examiner or the district attorney.

(2) No person shall move or remove any of the items specified in subsection (1) of this section if the medical examiner or district attorney objects.

(3) A medical examiner, district attorney or deputy medical examiner shall take custody of or exercise control over the body, the effects of the deceased and any weapons, instruments, vehicles, buildings or premises which the medical examiner, district attorney or deputy medical examiner has reason to believe were involved in the death, in order to preserve evidence relating to the cause and manner of death.

(4) In a death requiring investigation, no person shall undress, embalm, cleanse the surface of the body or otherwise alter the appearance or the state of the body without the permission of the medical examiner or the district attorney. [1973 c.408 §14]

**146.105** [1959 c.629 §7; repealed by 1965 c.221 §7]

**146.107 Authority to enter and secure certain premises.** (1) A medical examiner, deputy medical examiner or district attorney may enter any room, dwelling, building or other place in which the medical examiner, deputy medical examiner or district attorney has reasonable cause to believe that a body or evidence of the circumstances of death requiring investigation may be



found.

(2) If refused entry, the medical examiner, deputy medical examiner or district attorney may apply to any judge authorized to issue search warrants for an order to enter such premises, search for and seize a body or any evidence of the cause or manner of death.

(3) Upon application supported by an affidavit setting forth facts and circumstances tending to show that a body or such evidence of death is in the place to be searched, the judge shall issue such order to enter and search and seize.

(4) To preserve evidence, a medical examiner, deputy medical examiner or district attorney may:

(a) Place under the custody or control of the medical examiner, deputy medical examiner or district attorney, or enclose or lock any room, dwelling, building or other enclosure for a period of not more than five days.

(b) Rope off or otherwise restrict entry to any open area.

(c) Forbid the entrance of any unauthorized person into the area specified under paragraphs (a) and (b) of this subsection.

(5) No person shall enter upon the enclosures or areas specified in subsection (4) of this section without the permission of the medical examiner, deputy medical examiner or district attorney. [1973 c.408 §15]

**146.109 Notification of next of kin.** (1) Upon identifying the body, the medical examiner shall immediately attempt to locate the next of kin or responsible friends to obtain the designation of a funeral home to which the deceased is to be taken.

(2) If unable to promptly obtain a designation of funeral home from the next of kin or responsible friends, the medical examiner or deputy medical examiner shall designate the funeral home. In designating the funeral home, the medical examiner or deputy medical examiner shall be fair and equitable among the funeral homes listed in the office of the district medical examiner. [1973 c.408 §16]

**146.110** [Amended by 1959 c.629 §34; repealed by 1965 c.221 §27]

**146.113 Authority to order removal of body fluids.** (1) A medical examiner or district attorney may, in any death requiring investigation, order samples of blood or urine taken for laboratory analysis.

(2) When a death requiring an investigation as a result of a motor vehicle accident occurs within five hours after the accident and the deceased is over 13 years of age, a blood sample shall be taken and forwarded to an approved laboratory for analysis. Such blood or urine samples shall be analyzed for the presence and quantity of ethyl alcohol, and if considered necessary by the State Medical Examiner, the presence of controlled substances.

(3) Laboratory reports of the analysis shall be made a part of the State Medical Examiner's and district medical examiner's files. [1973 c.408 §17; 1979 c.744 §5]

**146.115** [Amended by 1955 c.190 §1; repealed by 1965 c.221 §27]

**146.117 Autopsies.** (1) A medical examiner or district attorney may order an autopsy performed in any death requiring investigation. This authorization for an autopsy shall permit the pathologist to remove and retain body tissues or organs from the deceased for the purpose of the

legal or medical determination of the manner or cause of death, or other purposes approved under policies established by the State Medical Examiner Advisory Board.

(2) If an autopsy is ordered, the medical examiner shall obtain the services of a pathologist authorized under ORS 146.045 (2)(b).

(3) A pathologist may not receive compensation for performing the autopsy if, as medical examiner, the pathologist ordered the autopsy. [1973 c.408 §18; 1987 c.142 §4; 1995 c.744 §15]

**146.120** [Amended by 1959 c.629 §35; repealed by 1965 c.221 §27]

**146.121 Disposition of body; filing; expenses.** (1) No person shall bury or otherwise dispose of the body of a person whose death required investigation, without having first obtained a burial or cremation permit, or a death certificate completed and signed by a medical examiner.

(2) When a medical examiner investigates the death of a person whose body is not claimed by a friend or relative within five days of the date of death, the sheriff or, in counties having a population of 400,000 or more, the medical examiner shall dispose of the body according to the provisions of ORS 97.170 to 97.210.

(3) If the medical examiner is unable to dispose of the body of a deceased person according to subsection (2) of this section, the medical examiner may order in writing that the body be either cremated or plainly and decently buried.

(4) The sheriff or medical examiner shall file a copy of the death certificate, the order for disposition and a verified statement of the expenses of the cremation or burial with the board of county commissioners. The board of county commissioners shall pay such expenses, or any proportion thereof as may be available, from county funds annually budgeted for this purpose. [1973 c.408 §19; 1995 c.744 §16]