Death Investigations Testimony

Fellow Committee Members and Guests:

Thank you for the opportunity to share some observations and offer some suggestions about the unfortunate state of death investigations in Wisconsin.

You will be interested to know that information from the Center for Disease Control reveals that Wisconsin is the only state in the nation that has no specific statutory provision for either Coroners or Medical Examiners. Wisconsin statutes ramble on about what the duties are, fees etc. but no where is there a definition of the qualifications one must possess to be a Coroner or Medical Examiner. This is a serious omission and should have been addressed long ago.

While it is true that an Attorney General's opinion in 1969 held that a Medical Examiner should be a qualified expert in pathology which would by deduction be a medical doctor who is a pathologist. However, that opinion was never incorporated into a statute. There has been no Attorney General opinion establishing any qualifications for coroners and none have been made by statute so therefore none exist.

Twenty-three states have abolished the Coroner system and operate under a professional structure headed by a Medical Examiner. This, we assert, is what is needed in this state.

In Wisconsin, death investigations are subject to a patchwork of rules that are county based made by a variety of people without any specific qualifications, no oversight and a paucity of guidance from the state. This non-system does not at all relate to the present age where mobility is the order of the day. People often live in one county, work in another and can die in any of the 72 counties. There is often a lot of confusion about cremation permits, release of bodies to funeral homes etc. because of county border issues. A statewide system would eliminate the territorial issues.

The present Coroner system is a partisan political one. Death is non-partisan and having the person in charge of death investigations a partisan official stretches credulity.

Problems with the current Coroner system:

1. A job without qualifications can and is often occupied by persons with insufficient knowledge to carry out the duties. Coroners are dependent on county sheriffs, sheriff deputies, state police and physicians to carry out investigations where there is a death that is required to be reported to the Coroner as found in 979.01 of the statutes.

2. Because it is an elected, constitutional office there is no oversight of the office. County Boards can not question any matters relating to the Coroner's office and can only pay the charges submitted to it by the Coroner.

3. Section HFS 135.08, Wis. Admin. Code directs a Coroner or Medical Examiner to establish procedures for the pronouncement of death outside of a hospital or nursing home in that county. Some Coroners still do not have any written procedures and make them up as they go along. This is particularly problematic for hospices and others that have to interact with them. (Exhibit 1)

We question the development of this Administrative Code (135.8). The recent history of developing the rules relating to Wisconsin Act 273, which was initiated by our organization, revealed that one person seemed to be the one developing the rules and forms. That individual had not consulted with persons knowledgeable about some of the issues involved and the forms were not acceptable. When this matter was brought to the attention of DHFS legal counsel and others they had to be redone resulting in considerable delay and confusion.

The concept of permitting "hospice advance notification registries" is antithetical to a patient and family's right to privacy. Everyone who becomes a hospice patient does not die. In fact, a large percentage actually improve after becoming a hospice patient and some are discharged from hospice and return at some time in the future. The prognostication of death is complicated. Why should the fact that someone is a hospice patient be of any interest to the Coroner? Hospices are staffed by well trained, professional people who are very conversant with what are "reportable" deaths and have never hesitated to report such a death. In a recent discussion between a hospice director in Wood County and the Coroner who was demanding "advance registration." he could give no reason as to why he should have such registration. In all instances hospices are willing to notify the Coroner that a death has occurred even if it is not a reportable death as defined by statute.

Our Legal Counsel has advised us that such "registries" are a violation of Wisconsin confidentiality laws unless there is a specific consent given by a patient or patient's agent. (Exhibit 2) One Coroner wrote a very threatening letter to a hospice demanding that advance notification be done or she "would arrive with the full force of the law." Some hospices have complied in order to protect the family from the unfortunate kinds of situations that have occurred when Coroners or their deputies do arrive with the "full force of the law." (Exhibit 3) Others appear to have powers that permit them to set large penalties for non-compliance with their rules. How that Coroner would go about assessing and collecting such penalties should be looked at. In addition the Coroner's office in this exhibit demands that a copy Notice of Removal form be filed with her.(Exhibit 4) This is contrary to the instructions from the Department of Health and Family Services printed on the form requiring that it only be filed with the local Registrar of Deeds. (Exhibit 5).

Some Coroners demand an on-site visit for every death. (Exhibit 6) The simple explanation for this policy seems to be economic as the Coroner is paid by call in many counties.

Another Coroner sent the hospices in his county a letter advising them the county would not be complying with the law permitting hospice nurses to pronounce death (Exhibit 7). Suffice to say, at our request, a letter from the Department's legal counsel did persuade him otherwise.

In all probability there has been considerable abuse of the handling of medications that have been prescribed for a patient that has died. The situation in Rock County is a recent example as the one detailed in Exhibit 8. Another coroner (Exhibit 9, Appendix A) made up a rule that the hospice registered nurse had to be present to pronounce death. Such a rule is not applicable to physicians or coroners. It is a clear case of discrimination and an attempt to assert authority that should not and does not exist.

All of the Exhibits presented here are from different counties. They illustrate some of the issues with which hospices and others must contend in relating to Coroners.

Most hospices cover several counties and therefore must comply with a hodge podge of rules made up by different Coroners. These many different rules simply make it more difficult for us to serve patients and their families at a difficult time in a compassionate, professional manner.

We urge the committee to eliminate the present non-system and develop a single statewide system under the direction of a professional medical examiner and accountable to the appropriate state agency which in all probability would be the Department of Health and Family Services.

Respectfully submitted,

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The HOPE of Wisconsin