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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
OFFICE OF THE STATE MEDICAL EXAMINER
STATE MEDICAL EXAMINER**

41 N.J.R. 2440(a)

Proposed Readoption: *N.J.A.C. 13:49*

[Click here to view Interested Persons Statement](#)

Authorized by: Victor Weedn, M.D., J.D., Acting State Medical Examiner.

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

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-169.

Interested persons may submit written comments via overnight or regular mail only by August 14, 2009 to:

Victor Weedn, M.D., J.D., Acting State Medical Examiner
Office of the State Medical Examiner
P.O. Box 94
Trenton, New Jersey 08625-0094

The agency proposal follows:

Summary

Under the provisions of *N.J.S.A. 52:17B-80* of the State Medical Examiner Act, *N.J.S.A. 52:17B-78* et seq., the State Medical Examiner is proposing readoption of administrative rules at *N.J.A.C. 13:49* which provides the standards for procedures and investigations by medical examiners and the training and experience requirements of the position of county medical examiner, deputy or assistant county medical examiners, and forensic pathologists.

Pursuant to the provisions of N.J.S.A. 52:14B-5.1c, this chapter expires on October 31, 2009. The Office of the State Medical Examiner, by the Acting State Medical Examiner, has reviewed these rules and found them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. Accordingly, the Acting State Medical Examiner proposes to readopt *N.J.A.C. 13:49* in its entirety, without amendments.

N.J.A.C. 13:49 is summarized as follows:

N.J.A.C. 13:49-1.1 sets forth circumstances under which autopsies are mandated. This rule provides that the autopsy shall be the least intrusive procedure consistent with proper forensic practice. It also delineates procedures to be followed in the event that the decedent is a donor under the Uniform Anatomical Gift Act, P.L. 1969, c. 161 (*N.J.S.A. 26:6-57 et seq.*). This section of the rules also implements other statutory [page=2441] requirements such as: standardized protocols for SIDS autopsies (*N.J.S.A. 52:17B-88.10*); procedures for sudden or unexpected deaths of infants (*N.J.S.A. 52:17B-86i*); deaths of inmates of prisons (*N.J.S.A. 52:17B-86e*); and other deaths as provided at *N.J.S.A. 52:17B-86*.

N.J.A.C. 13:49-1.2 sets forth circumstances under which autopsies may be performed at the discretion of the county medical examiner.

N.J.A.C. 13:49-1.3 provides for the establishment of jurisdiction in a death investigation when the proximate cause of death was initiated in another county or state.

N.J.A.C. 13:49-1.4 provides procedures for examination where death involved military personnel killed in aircraft accidents.

N.J.A.C. 13:49-1.5 provides standards for: performance of autopsy examinations; autopsy examinations of potential organ donors; x-ray, microscopic, microbiologic, and toxicologic examination; and examinations in death investigation involving a threat to public health.

N.J.A.C. 13:49-1.6 incorporates statutory requirements governing religious objection to autopsy. *N.J.S.A. 52:17B-88.1 et seq.*

N.J.A.C. 13:49-1.7 describes investigative standards and procedures applicable to unidentified decedents.

N.J.A.C. 13:49-1.8 defines the terms used in these rules.

N.J.A.C. 13:49-2.1 sets forth requirements for collection of specimens for alcohol determinations.

N.J.A.C. 13:49-2.2 sets forth requirements for collection of specimens for narcotic or dangerous drug determination.

N.J.A.C. 13:49-2.3 sets forth requirements for collection of specimens for microscopic examination.

N.J.A.C. 13:49-3.1 sets forth circumstances under which certain reports may be released.

N.J.A.C. 13:49-3.2 sets fees to be charged for copies of records.

N.J.A.C. 13:49-3.3 requires that State and county medical examiners maintain full and complete records of every death examination. It also sets forth reporting requirements for every death reported to the county medical examiner's office.

N.J.A.C. 13:49-4.1 sets forth the standards for the establishment and maintenance of refrigerated storage space to be kept by county medical examiners for preservation of dead bodies and requires sufficient facilities to perform the examination of dead bodies under investigation.

N.J.A.C. 13:49-5.1 sets forth standards for a death investigation. This rule also requires that county medical examiners have a legally authorized physician medical examiner on duty at all times. Finally, this rule sets forth: requirements for death scene investigation; provides standards for obtaining information from first hand witnesses; and provides for cooperation and coordination with the county prosecutor.

N.J.A.C. 13:49-6.1 requires the medical examiner to establish proper identification of the decedent. It requires the medical examiner to personally complete a physical examination of the decedent, and enumerates the procedures for completion of the death certificate.

N.J.A.C. 13:49-6.2 provides procedures for notification of deaths from communicable diseases.

N.J.A.C. 13:49-7.1 sets forth eligibility standards, training and experience requirements of medical examiners and designated forensic pathologists.

N.J.A.C. 13:49-8.1 provides procedures for declaring a physician ineligible to perform the duties of a medical examiner in the event he or she does not meet eligibility standards or has been demonstrated professionally incompetent. It also provides for proceedings for the restriction of, or removal from, duties, and for notice of proceedings and an opportunity to be heard in accordance with the Administrative Procedure Act.

As a 60-day comment period is provided on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to *N.J.A.C. 1:30-3.3(a)5*.

Social Impact

Readoption of these rules will assure the continued quality of medical examiner personnel, preserve the integrity of post-mortem examinations, facilitate the efficiency and reliability of criminal homicide investigations and assure timely and accurate medical records are kept on file to assist in the answering of medical inquiries by family members and other interested parties in the future.

Economic Impact

The proposed readoption is a continuation of administrative rules that impose on the Office of the State Medical Examiner the responsibility to administratively oversee the county medical examiner performance of statutory obligations. *N.J.S.A. 52:17B-83* through 85 and 93. This statutory obligation requires that the county medical examiners perform death investigations, which include external examinations and autopsies. The readoption of these rules does not affect the funding sources, as that is a function for the individual counties, as required by the Legislature. *N.J.S.A. 52:17B-85*. These rules do not constitute a direct economic impact on the public. The legislative mandate to conduct death investigation is crucial to insure that law enforcement performs its duty to investigate homicides, to protect the public's health, safety and welfare and to provide grieving families with helpful information.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption were not issued: (1) under the authority of any Federal law or state statute that incorporates or refers to Federal law, standards or requirements; or (2) to implement, comply with or participate in any program established under Federal law or under a state statute that incorporates or refers to Federal law, standards or requirements.

Jobs Impact

The Office of the State Medical Examiner anticipates that the rules proposed for readoption will not result in the creation of new jobs or cause the loss of existing jobs.

Agriculture Industry Impact

The rules proposed for re adoption will not have any impact on the agriculture industry in New Jersey or elsewhere.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for re adoption do not impose reporting, recordkeeping or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. The rules set forth standards and requirements applicable to the conducting of autopsies by State and county medical examiners.

Smart Growth Impact

The rules proposed for re adoption will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for re adoption will not result in a change in the average cost of housing in New Jersey. The rules proposed for re adoption have no impact on housing because the rules pertain solely to standards and procedures of forensic practice within the medical examiner system.

Smart Growth Development Impact

There is an extreme unlikelihood that the rules proposed for re adoption would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules proposed for re adoption have no impact on housing because the rules pertain solely to standards and procedures of forensic practice within the medical examiner system.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at *N.J.A.C. 13:49*.