

1 HOUSE BILL 655

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO MEDICAL INVESTIGATIONS; ENACTING THE MEDICAL
12 INVESTIGATORS ACT; AMENDING AND REPEALING SECTIONS OF THE NMSA
13 1978 WHERE THE STATE MEDICAL INVESTIGATOR IS MENTIONED.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
17 through 16 of this act may be cited as the "Medical
18 Investigators Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Medical Investigators Act:

21 A. "autopsy" means the systematic examination and
22 dissection of a dead human body or human remains by a
23 pathologist for the purpose of determining the condition of the
24 body and the cause, mechanism or manner of death, evaluating
25 the clinical diagnoses, obtaining and retaining specimens for

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1 specialized testing, retrieving and preserving physical
2 evidence, identifying the deceased or educating medical
3 professionals and students;

4 B. "board" means the board of medical
5 investigators;

6 C. "body" means the body of a dead human or a part
7 or remains of a dead human;

8 D. "case" means the investigation and examination
9 of a body;

10 E. "cause of death" means the underlying disease or
11 injury responsible for setting in motion a series of
12 physiologic events culminating in death;

13 F. "child" means a person who has reached one year
14 of age and has not yet reached eighteen years of age;

15 G. "consent autopsy" means an autopsy that is
16 requested by an agency or person and that is performed with the
17 written consent of the designated representative;

18 H. "deputy medical investigator" means a person who
19 is employed by the office to conduct investigations into the
20 circumstances of deaths potentially under the jurisdiction of
21 the office and to perform external examinations;

22 I. "extended evaluation" means a delayed
23 examination of a removed organ as part of an autopsy;

24 J. "external examination" means an inspection or
25 examination of the outer surfaces of a body prior to or without

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1 an autopsy that might include radiologic imaging and sampling
2 of body fluids or tissues for diagnostic purposes;

3 K. "forensic pathologist" means a licensed
4 physician who is certified in forensic pathology by the
5 American board of pathology or who has completed a training
6 program in forensic pathology that is accredited by the
7 accreditation council on graduate medical education and who has
8 been officially qualified for examination in forensic pathology
9 by the American board of pathology or who has an international
10 equivalent;

11 L. "infant" means a born person who has not yet
12 reached one year of age;

13 M. "investigation" means a medicolegal inquiry,
14 whether slight or extensive, into a death;

15 N. "manner of death" means the classification of a
16 death as natural, an accident, a homicide, a suicide or
17 undetermined based in large part on the presence or absence of
18 intent to harm and the presence or absence of injury, the
19 purpose of which is to guide vital statistics nosologists to
20 the correct external causation code in the *International*
21 *Classification of Diseases*;

22 O. "medical investigator" means a forensic
23 pathologist who investigates and examines deaths under the
24 jurisdiction of the office to determine the condition of a body
25 and to certify the cause and manner of death;

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1 P. "next of kin" means the surviving spouse or
2 closest relative or other person legally responsible for the
3 body and personal property of a deceased;

4 Q. "office" means the office of the medical
5 investigator;

6 R. "tribal representative" means a person
7 designated by an Indian nation, tribe or pueblo as a liaison to
8 the office to assist the office with the proper handling of a
9 deceased person who was a member of the Indian nation, tribe or
10 pueblo; and

11 S. "unattended death" means the death of a person
12 who is not under the care of a health care provider authorized
13 to sign a death certificate pursuant to the Medical
14 Investigators Act, whether or not the death occurred in the
15 physical presence of the health care provider.

16 SECTION 3. [NEW MATERIAL] BOARD CREATED.--

17 A. The "board of medical investigators" is created.
18 The board consists of the following members:

- 19 (1) the dean of the university of New Mexico
20 school of medicine;
21 (2) the secretary of health;
22 (3) the chief of the New Mexico state police;
23 (4) the chair of the board of funeral
24 services; and
25 (5) the secretary of Indian affairs.

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1 B. Members of the board shall receive no
2 compensation, perquisite or allowance for their services as
3 board members.

4 C. The board shall meet at least annually, and as
5 often as necessary, to conduct board business. The chair or a
6 majority of board members may call additional meetings. The
7 chair shall call an additional meeting at the request of the
8 chief medical investigator.

9 D. The dean of the university of New Mexico school
10 of medicine shall call the first annual meeting of the board.
11 At that meeting, the members shall elect a chair, vice chair
12 and secretary from among the board's members.

13 E. The board shall select and employ the chief
14 medical investigator.

15 F. The board shall formulate broad policy for the
16 office. The office shall, subject to the approval of the
17 board, adopt and promulgate rules necessary or appropriate to
18 carry out the provisions of the Medical Investigators Act and
19 properly investigate deaths occurring within this state.

20 SECTION 4. [NEW MATERIAL] OFFICE OF THE MEDICAL
21 INVESTIGATOR--CREATED--CHIEF MEDICAL INVESTIGATOR--
22 QUALIFICATIONS.--

23 A. The "office of the medical investigator" is
24 created. The office shall be headed by the chief medical
25 investigator.

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1 B. The chief medical investigator shall be a
2 physician who:

3 (1) is licensed pursuant to the Medical
4 Practice Act or the Osteopathic Medicine Act;

5 (2) is certified in forensic pathology by the
6 American board of pathology; and

7 (3) has at least six years of post-training
8 experience as a forensic pathologist.

9 C. The chief medical investigator shall maintain
10 the office at the university of New Mexico school of medicine.
11 The university of New Mexico health sciences center shall
12 provide physical space for the office. The chief medical
13 investigator shall receive a faculty appointment in the
14 department of pathology of the university of New Mexico school
15 of medicine. The chief medical investigator must, at a
16 minimum, meet the qualifications required for an associate
17 professor appointment in the university of New Mexico school of
18 medicine pursuant to its policies.

19 D. The office may maintain as many regional
20 facilities as the chief medical investigator deems necessary.

21 **SECTION 5. [NEW MATERIAL] RECORDS KEPT.--**

22 A. The office shall maintain records of:

23 (1) investigations, including reports and
24 materials received from other organizations;

25 (2) post-mortem inspections and examinations;

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- 1 (3) autopsies, ancillary studies and
2 consultations;
3 (4) personal property and evidence taken into
4 possession;
5 (5) transportation and release of bodies and
6 remains;
7 (6) fees collected; and
8 (7) any other information deemed necessary by
9 the board.

10 B. Photographs, radiologic images and medical
11 information may be disclosed in research and educational
12 publications and forums; provided that all identifying
13 information has been removed.

14 C. The identity of a body and the cause and manner
15 of death shall be matters of public record. Once the identity
16 of a body and the next of kin are determined by the office or
17 any other agency, the office may use law enforcement agencies
18 to ensure that the next of kin has been notified.

19 D. Notwithstanding any other provision of law,
20 photographs kept as part of the final case investigation
21 records by the office shall be released only upon authorization
22 of the chief medical investigator or the chief medical
23 investigator's designee to law enforcement officials, court
24 officers, public health authorities, physicians and next of
25 kin. All other final case investigation records kept by the

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1 office shall be released in accordance with the Inspection of
2 Public Records Act.

3 SECTION 6. [NEW MATERIAL] FEES.--The board shall adopt
4 and promulgate a fee schedule for services provided by the
5 office.

6 SECTION 7. [NEW MATERIAL] ACCESS TO MEDICAL RECORDS--
7 SUBPOENA POWER.--

8 A. The office shall be afforded prompt access and
9 authority to receive electronic and paper copies of all
10 relevant medical and mental health records pertinent to an
11 investigation. The office shall also be afforded access to
12 radiologic images and other medical studies in any format in
13 which they are maintained. The office shall keep the collected
14 information confidential, except as disclosed through reports
15 and death certificates issued pursuant to the Medical
16 Investigators Act.

17 B. The chief medical investigator or the chief
18 medical investigator's designee may:

19 (1) administer oaths and issue subpoenas to
20 compel attendance of any witness in an investigation;

21 (2) issue subpoenas duces tecum to require a
22 witness to produce any books, records, documents, files or
23 other things under the control of the person served; and

24 (3) issue subpoenas for the production of
25 confidential medical records, mental health records, drug and

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1 alcohol abuse records and other relevant information from
2 physicians, hospitals, nursing homes, rehabilitation
3 facilities, residential care facilities and other health care
4 providers when conducting an investigation.

5 C. A subpoena shall state with reasonable certainty
6 the nature of the information required, the time and place
7 where the information shall be produced, whether the subpoena
8 requires the attendance of the person subpoenaed or only the
9 production of documents or other tangible objects and the
10 consequences of failure to obey the subpoena.

11 D. A subpoena shall be served by personal service
12 upon the person to be subpoenaed or by certified mail addressed
13 to the person at the person's last known address. A subpoena
14 shall be served without cost by local or state law enforcement
15 authorities. The service of the subpoena shall be at least
16 three days prior to the required appearance or production. If
17 the subpoena is served by certified mail, proof of service is
18 the affidavit of mailing.

19 E. After service of a subpoena, if the person
20 served neglects or refuses to comply with the subpoena, the
21 office may apply to the district court of the county where the
22 subpoena was served or the county where the subpoena was
23 responded to for an order compelling compliance. Failure of
24 the person to comply with the district court's order shall be
25 punishable as contempt.

1 SECTION 8. [NEW MATERIAL] DUTIES OF THE OFFICE.--

2 A. The office shall:

3 (1) make inquiries and investigate, as
4 necessary, a death, an anticipated death, a presumptive death
5 where there is no body and any other death reported to the
6 office to determine jurisdiction and the need for further
7 investigation, external examination or autopsy;

8 (2) establish a system and procedures for
9 dealing with deaths falling under the jurisdiction of the
10 office to determine:

- 11 (a) the identity of a body;
12 (b) the condition of the body;
13 (c) the cause and manner of death; and
14 (d) any issues or potential issues of
15 public health and public safety;

16 (3) when necessary in a death to be
17 investigated, take legal custody of and transport the body and
18 associated evidence from the place where the body is located to
19 a facility of the office;

20 (4) file death certificates with the
21 department of health in all cases that are accepted by the
22 office; provided that death certificates shall not be filed in
23 the absence of a body except by court order, by judicial decree
24 or in the case of an emergency;

25 (5) maintain records of investigated deaths

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1 and publish an annual report that includes statistics on causes
2 and manners of death in investigations under the jurisdiction
3 of the office;

4 (6) without charge, provide a complete record
5 of findings in any case to the district attorney, law
6 enforcement authorities and next of kin upon request; the
7 office may charge fees, subject to board approval, to provide
8 reports and other materials to all other requestors; and

9 (7) maintain accreditation by the national
10 association of medical examiners.

11 B. As persons and cultures might have certain
12 requirements and expectations related to post-mortem
13 disposition of a body, the office shall be sensitive to the
14 cultural, religious or personal beliefs of next of kin.

15 C. The office shall provide testimony in criminal
16 cases upon a valid subpoena. Testimony in civil cases and non-
17 jurisdictional criminal cases shall be subject to a
18 professional services fee.

19 SECTION 9. [NEW MATERIAL] DEATHS TO BE INVESTIGATED.--

20 A. The office shall have jurisdiction to
21 investigate the facts and circumstances concerning all human
22 deaths within the exterior boundaries of New Mexico, exclusive
23 of sovereign tribal domains or federal military or medical
24 installations, regardless of where the injuries leading to
25 death may have occurred, if:

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- 1 (1) the death appears to be due to violence;
- 2 (2) the death is of known or suspected
- 3 nonnatural causes;
- 4 (3) the death appears to be due to exposure to
- 5 ethanol, toxins, poisons or medicinal or illicit drugs;
- 6 (4) the death is of an infant or a child and
- 7 the death appears to be due to unexpected or unexplained
- 8 causes;
- 9 (5) the deceased, who was not an infant or a
- 10 child, was in apparent good health and the death appears to be
- 11 of unexpected or unexplained causes;
- 12 (6) the death is a stillbirth and the mother
- 13 is unattended by a health care provider at or after the
- 14 delivery;
- 15 (7) the death occurs under unusual or
- 16 suspicious circumstances;
- 17 (8) the death is known or suspected to be
- 18 caused by diseases or other conditions constituting a threat to
- 19 the public;
- 20 (9) the death is of a person in the custody of
- 21 a governmental agency or a representative of a governmental
- 22 agency;
- 23 (10) the death is unattended by a physician;
- 24 (11) the death allegedly resulted from
- 25 unexpected complications or unintended consequences of medical

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1 intervention;

2 (12) the body is to be cremated, buried at sea
3 or disposed of by means other than burial; or

4 (13) the cause of death or the manner of death
5 is of public interest.

6 B. Anyone who becomes aware of a death potentially
7 under the jurisdiction of the office shall immediately report
8 it to the office and, if appropriate, to law enforcement
9 authorities. Upon receipt of notification of a death, the
10 office shall determine if the office has jurisdiction over the
11 body and, if so, shall:

12 (1) if necessary, take charge of the body; and

13 (2) notify law enforcement authorities when
14 appropriate.

15 C. When the office investigates a death and does
16 not establish jurisdiction, the death certificate shall be
17 completed by the deceased's physician of record, if a physician
18 of record exists.

19 D. The scope and manner of the office's
20 investigation are within the office's discretion.

21 SECTION 10. [NEW MATERIAL] SCENE INVESTIGATIONS--CRIMINAL
22 PENALTY.--

23 A. An investigation shall be conducted by a deputy
24 medical investigator for deaths potentially under the
25 jurisdiction of the office and, where appropriate, shall

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1 include timely evaluations of the death scene. The office
2 shall prepare written reports for all cases that the office
3 investigates.

4 B. A scene investigation may be conducted at the
5 location where a body is discovered as well as other locations
6 thought to bear upon the death of the person.

7 C. A scene shall be secured by a law enforcement
8 agency and kept free of disturbance.

9 D. When the office has jurisdiction, the office
10 shall take custody of a body and of clothing, personal effects
11 and evidence on the body.

12 E. The office may seize and take custody of all
13 other evidence that is pertinent to an investigation and that
14 is not taken by law enforcement personnel.

15 F. Law enforcement personnel shall notify the
16 office as soon as the law enforcement personnel becomes aware
17 of a death falling within the jurisdiction of the office, and
18 the office shall inform appropriate law enforcement personnel
19 before it begins its investigation.

20 G. Law enforcement personnel shall not restrict
21 office personnel from timely access to and retrieval of a body.
22 The office may restrict law enforcement personnel from access
23 to the body and clothing and personal effects on the body. It
24 is unlawful to willfully and unnecessarily touch, remove or
25 disturb any dead body required by law to be investigated by the

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1 office or any article on the body or disturb its surroundings
2 until authority is granted by a representative of the office.
3 Any person violating a provision of this subsection is guilty
4 of a petty misdemeanor.

5 H. Evidence collected by law enforcement personnel
6 shall be made available to the office and vice versa, except
7 where testing is destructive and does not permit further
8 analysis by another agency.

9 I. Law enforcement investigative reports as well as
10 videos, reports of evidence analyses and other materials
11 germane to office investigations shall be made available to the
12 office.

13 SECTION 11. [NEW MATERIAL] POST-MORTEM EXAMINATIONS AND
14 AUTOPSIES.--

15 A. An investigation, an external examination, an
16 extended evaluation or an autopsy shall be conducted as
17 necessary and may be performed over the implicit or explicit
18 objections, including cultural, religious or personal
19 objections, of the next of kin or other parties.

20 B. The chief medical investigator or the chief
21 medical investigator's designee shall decide the extent of the
22 investigation and whether to perform an autopsy or other form
23 of evaluation when the next of kin or other parties raise
24 objections.

25 C. The office may request laboratory analyses,

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1 procedures and expert consultations. The scientific laboratory
2 division of the department of health shall provide routine
3 toxicologic and microbiologic laboratory testing to the office.

4 D. If the office determines that an extended
5 evaluation is required, the office shall make reasonable
6 efforts to explain to the next of kin why the extended
7 evaluation is needed and take into consideration any cultural,
8 religious or personal needs identified by the next of kin or
9 tribal representative if the deceased was a member of an Indian
10 nation, tribe or pueblo.

11 E. The board may establish by rule a process for a
12 next of kin to request review of the cause and manner of death.

13 SECTION 12. [NEW MATERIAL] ORGANS AND TISSUES.--The
14 office may:

15 A. examine, process, analyze and test organs and
16 tissues and other specimens from a body or order examination,
17 processing, analysis, testing or consultation by an outside
18 facility;

19 B. retain organs, tissues and other specimens,
20 including deoxyribonucleic acid specimens, from a body for
21 diagnostic purposes; for future examination or reference; or
22 for processing, quality control, analysis, testing,
23 consultation or evidentiary purposes;

24 C. release organs and tissues to organ and tissue
25 procurement organizations or allow the harvesting of organs and

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1 tissues for transplant purposes when appropriate and with the
2 consent of the next of kin; and

3 D. release organs and tissues not ordinarily
4 retained for the purposes stated in Subsection B of this
5 section for education, research or other purposes upon the
6 consent of the next of kin.

7 SECTION 13. [NEW MATERIAL] DISPOSITION OF BODIES, REMAINS
8 AND PROPERTY.--

9 A. Upon approval by the chief medical investigator
10 or the chief medical investigator's designee, a body shall be
11 released to the next of kin.

12 B. An unidentified body shall be held for at least
13 three months by the office. A dental examination,
14 fingerprints, full body radiographs or computed tomography scan
15 and collection of samples for potential deoxyribonucleic acid
16 analysis shall be performed on all unidentified bodies where
17 possible.

18 C. When an identified body is not claimed after two
19 weeks, the body may be released for anatomical donation,
20 cremation or burial by the county of residence of the deceased.
21 If the county of residence is unknown or is out of the state,
22 the body shall be cremated or buried by the county in which the
23 body was found.

24 D. The office may cause a body to be frozen,
25 properly embalmed or prepared for preservation for such time as

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1 the chief medical investigator or the chief medical
2 investigator's designee deems appropriate.

3 E. All personal property of the deceased taken into
4 possession by the office shall be catalogued and a written
5 inventory shall be maintained.

6 F. Any personal property not held for evidence
7 shall be released to the next of kin within thirty days of the
8 completion of the investigation.

9 G. If the next of kin is in dispute or is unknown,
10 the office shall retain the personal property until an executor
11 or administrator is appointed by a court of competent
12 jurisdiction. The office shall develop and the board shall
13 approve procedures to dispose of any personal property that is
14 not claimed after six months.

15 H. A signed affidavit of release form shall be
16 obtained from the next of kin taking custody of the body and
17 personal property from the office.

18 SECTION 14. [NEW MATERIAL] EXHUMATIONS.--The office may
19 conduct an exhumation to determine the cause or manner of
20 death, to investigate a public health or safety matter, to
21 obtain evidence or to address a medical or legal issue. The
22 office shall notify the executor or administrator of the
23 deceased's estate or the next of kin unless exigent
24 circumstances exist. The office may utilize local law
25 enforcement or state police if additional security, assistance

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1 in gaining access or assistance in recovering the remains is
2 needed to carry out the exhumation. The office may utilize
3 funeral service providers to assist with exhumations conducted
4 in cemeteries.

5 SECTION 15. [NEW MATERIAL] TRIBAL COLLABORATION.--

6 A. The office shall make reasonable efforts to
7 determine if a deceased was a member of an Indian nation, tribe
8 or pueblo. If a deceased was a member of an Indian nation,
9 tribe or pueblo and the next of kin or tribal representative
10 offers a cultural or religious objection to an autopsy, the
11 office shall use due diligence to avoid an autopsy and shall
12 use the least invasive means possible to satisfy the office's
13 duties in conducting the investigation.

14 B. When a deceased was a member of an Indian
15 nation, tribe or pueblo and an autopsy is required, the office
16 shall attempt to provide advance notice of the autopsy to the
17 next of kin or to the tribal representative. The office shall
18 allow a law enforcement officer of the Indian nation, tribe or
19 pueblo of the deceased to observe during the forensic autopsy.
20 The law enforcement officer attending the forensic autopsy
21 shall not interfere with the forensic autopsy procedure and
22 shall follow the health rules governing autopsy procedures.
23 The office shall provide documentation concerning the forensic
24 autopsy, upon request, to the next of kin or, if none is
25 identified, to the tribal representative.

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1 C. After an autopsy has been conducted by the
2 office on a deceased who was a member of an Indian nation,
3 tribe or pueblo, the office shall use all due diligence to
4 consult with the next of kin or, at the next of kin's
5 direction, the tribal representative regarding the disposition
6 of the body. Unless other treatment of the remains is required
7 for investigation, the office shall replace all body parts with
8 the exception of those materials potentially required for
9 diagnosis. Upon request, the office shall provide written
10 certification to the next of kin or tribal representative of
11 the disposition of the body parts.

12 D. The office shall request that each Indian
13 nation, tribe or pueblo designate a tribal representative that
14 the office may contact.

15 SECTION 16. [NEW MATERIAL] REPORTS OF DEATH--PENALTY.--

16 A. Whoever becomes aware of the sudden, unexpected,
17 suspicious, violent, nonnatural or unattended death of a person
18 or finds a body shall report the death or the body to the
19 appropriate law enforcement agency or the office within a
20 reasonable period of time.

21 B. Except on authority of the office or until the
22 office has taken custody of the body and completed its
23 investigation, a person shall not:

24 (1) touch, remove, disturb or conduct an
25 autopsy on a body that is required by law to be reported to the

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1 office;

2 (2) touch, remove or disturb an article or
3 object on or near a body that is required by law to be reported
4 to the office; or

5 (3) disturb the surroundings of a body that is
6 required by law to be reported to the office.

7 C. A person who violates Subsection A or B of this
8 section is guilty of a misdemeanor and upon conviction shall be
9 punished by a fine not to exceed five thousand dollars (\$5,000)
10 or by imprisonment for a definite term not to exceed one year
11 or both.

12 SECTION 17. Section 24-12-1 NMSA 1978 (being Laws 1973,
13 Chapter 354, Section 1, as amended) is amended to read:

14 "24-12-1. NOTIFICATION OF RELATIVES OF DECEASED--
15 AUTHORIZATION OF PERSON DESIGNATED ON RECORD OF EMERGENCY DATA
16 FORM TO DIRECT BURIAL--UNCLAIMED [~~DECEDENTS~~] DECEASED.--

17 A. State, county or municipal officials, or a
18 hospital or another health care facility, having charge or
19 control of a body of a dead person shall use due diligence to
20 notify the relatives of the deceased.

21 B. If the [~~decedent~~] deceased died on or off a
22 military installation while serving in any branch of the United
23 States armed forces, the United States reserve forces or the
24 national guard, [~~during any period of duty when the secretary~~
25 ~~of the military service concerned can provide for the recovery,~~

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1 ~~care and disposition of remains, and the decedent completed a~~
2 ~~United States department of defense record of emergency data~~
3 ~~form or its successor form, the authority to direct the burial~~
4 ~~of the decedent or to provide other funeral and disposition~~
5 ~~arrangements for the decedent devolves on the person designated~~
6 ~~by the decedent pursuant to that form] the deceased's next of~~
7 ~~kin shall be notified according to the procedures set forth by~~
8 ~~the United States department of defense. If the deceased is a~~
9 ~~known veteran of the United States armed forces, the state,~~
10 ~~county or municipal officials or hospital or other health care~~
11 ~~facility having charge or control of the body of a dead person~~
12 ~~shall use due diligence to notify the next of kin of the~~
13 ~~deceased.~~

14 C. If no claimant is found who will assume the cost
15 of [~~burial~~] disposition, the official having charge or control
16 of the body shall notify the [~~medical investigator stating,~~
17 ~~when possible, the name, age, sex and cause of death of the~~
18 ~~deceased~~] county where the deceased resided at the time of the
19 death and provide detailed data demonstrating due diligence in
20 identifying and locating a next of kin willing to assume this
21 responsibility and noting when no next of kin is found.

22 D. The body shall be embalmed or cremated according
23 to rules of the state agency, county or municipality having
24 jurisdiction. [~~After the exercise of due diligence required in~~
25 ~~Subsection A of this section and the report to the medical~~

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1 ~~investigator required in Subsection C of this section, the~~
2 ~~medical investigator shall be furnished detailed data~~
3 ~~demonstrating such due diligence and the fact that no claimant~~
4 ~~has been found. When the medical investigator has determined~~
5 ~~that due diligence has been exercised, that reasonable~~
6 ~~opportunity has been afforded relatives to claim the body and~~
7 ~~that the body has not been claimed, the medical investigator~~
8 ~~shall issue a certificate determining that the remains are~~
9 ~~unclaimed.] In no case shall an unclaimed body be disposed of~~
10 ~~in less than two weeks from the date of the discovery of the~~
11 ~~body."~~

12 SECTION 18. Section 24-12-2 NMSA 1978 (being Laws 1973,
13 Chapter 354, Section 2, as amended) is amended to read:

14 "24-12-2. DISPOSITION OF UNCLAIMED BODY--TRANSMISSION OF
15 RECORDS OF INSTITUTION.--

16 A. ~~[Upon the issuance of his certificate that the~~
17 ~~remains are unclaimed] When the office of the medical~~
18 ~~investigator [shall retain the body for use only for medical~~
19 ~~education or shall certify that the body is unnecessary or~~
20 ~~unsuited for medical education and release it to the state,~~
21 ~~county or municipal officials having charge or control of the~~
22 ~~body for burial] deems that the remains from jurisdictional~~
23 ~~cases are unclaimed, the office may permit the body to be used~~
24 ~~for education or may release it to the state, county or~~
25 ~~municipal officials having charge or control of the body for~~

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1 disposition. The state, county or municipal officials shall
2 have the body removed for disposition within [~~three~~] two weeks
3 from the date on which the office of the medical investigator
4 released the body.

5 B. If the body is retained for use in [~~medical~~]
6 education, the facility or person receiving the body for that
7 use shall pay the costs of preservation and transportation of
8 the body and shall keep a permanent record of bodies received.

9 C. If a deceased person was an inmate of a public
10 institution, the institution shall transmit, upon request of
11 the medical investigator, a brief medical history of the
12 unclaimed dead person for purposes of identification and
13 permanent record. The records shall be open to inspection by
14 any state or county official or district attorney.

15 D. If a deceased is a known United States veteran,
16 the office of the medical investigator shall:

17 (1) contact the United States department of
18 veterans affairs to determine eligibility for burial or
19 cremation benefits; and

20 (2) proceed with unclaimed procedures and
21 inform the county wherein the deceased resided at the time of
22 death of the veteran's eligibility for burial or cremation
23 benefits through the United States department of veterans
24 affairs."

25 SECTION 19. Section 24-12-4 NMSA 1978 (being Laws 1973,

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1 Chapter 354, Section 4, as amended) is amended to read:

2 "24-12-4. POST-MORTEM EXAMINATIONS AND AUTOPSIES--CONSENT
3 REQUIRED.--

4 A. An autopsy or post-mortem examination may be
5 performed on the body of a deceased person by a licensed
6 physician [~~or, surgeon~~], pathologist or, under the supervision
7 of a licensed physician, a medical student or resident
8 physician, whenever consent to the procedure has been given by:

9 (1) written authorization signed by the
10 deceased during [~~his~~] the person's lifetime;

11 (2) authorization of any person or on behalf
12 of any entity whom the deceased designated in writing during
13 [~~his~~] the person's lifetime to take charge of [~~his~~] the
14 deceased's body for burial or other purposes;

15 (3) authorization of the deceased's surviving
16 spouse;

17 (4) authorization of an adult child, parent or
18 adult brother or sister of the deceased if there is no
19 surviving spouse or if the surviving spouse is unavailable,
20 incompetent or has not claimed the body for burial after
21 notification of the death of the [~~decedent~~] deceased;

22 (5) authorization of any other relative of the
23 deceased if none of the persons enumerated in Paragraphs (2)
24 through (4) of this subsection is available or competent to
25 give authorization; or

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1 (6) authorization of the public official,
2 agency or person having custody of the body for burial if none
3 of the persons enumerated in Paragraphs (2) through (5) of this
4 subsection is available or competent to give authorization.

5 B. An autopsy or post-mortem examination shall not
6 be performed under authorization given under the provisions of
7 Paragraph (4) of Subsection A of this section by any one of the
8 persons enumerated if, before the procedure is performed, any
9 one of the other persons enumerated objects in writing to the
10 physician or surgeon by whom the procedure is to be performed.

11 ~~[G. An autopsy or post-mortem examination may be~~
12 ~~performed by a pathologist at the written direction of the~~
13 ~~district attorney or his authorized representative in any case~~
14 ~~in which the district attorney is conducting a criminal~~
15 ~~investigation.~~

16 ~~D. An autopsy or post-mortem examination may be~~
17 ~~performed by a pathologist at the direction of the state,~~
18 ~~district or deputy medical investigator when he suspects the~~
19 ~~death was caused by a criminal act or omission or if the cause~~
20 ~~of death is obscure.~~

21 ~~E.]~~ C. For purposes of this section, "autopsy":

22 (1) means a post-mortem dissection of a dead
23 human body in order to determine the cause, seat or nature of
24 disease or injury and includes the retention of tissues
25 customarily removed during the course of autopsy for

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1 evidentiary, identification, diagnosis, scientific or
2 therapeutic purposes; and

3 (2) does not include an autopsy that is within
4 the jurisdiction of the office of the medical investigator
5 pursuant to the Medical Investigators Act."

6 SECTION 20. Section 24-14-20 NMSA 1978 (being Laws 1961,
7 Chapter 44, Section 18, as amended) is amended to read:

8 "24-14-20. DEATH REGISTRATION.--

9 A. A death certificate for each death that occurs
10 in this state, in which cause or manner of death is not subject
11 to investigation by the office of the medical investigator,
12 shall be filed within [~~five~~] ten days after the death and prior
13 to final disposition. The death certificate shall be
14 registered by the state registrar if it has been completed and
15 filed in accordance with this section, subject to the exception
16 provided in Section 24-14-24 NMSA 1978; provided that:

17 (1) if the place of death is unknown but the
18 dead body is found in this state, a death certificate shall be
19 filed with a local registrar within ten days after the
20 occurrence. The place where the body is found shall be shown
21 as the place of death. If the date and time of death is
22 unknown, it shall be [~~approximated~~] recorded as the date and
23 time of the pronouncement by the [~~state~~] office of the medical
24 investigator; and

25 (2) if death occurs in a moving conveyance in

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1 the United States and the body is first removed from the
2 conveyance in this state, the death shall be registered in this
3 state and the place where the body is first removed shall be
4 considered the place of death. When a death occurs on a moving
5 conveyance while in international waters or air space or in a
6 foreign country or its air space and the body is first removed
7 from the conveyance in this state, the death shall be
8 registered in this state, but the certificate shall show the
9 actual place of death insofar as can be determined by the
10 [~~state~~] office of the medical investigator.

11 B. The funeral service practitioner or person
12 acting as a funeral service practitioner who first assumes
13 custody of a dead body shall:

- 14 (1) file the death certificate;
15 (2) obtain the personal data from the next of
16 kin or the best qualified person or source available; and
17 (3) obtain the medical certification of cause
18 of death.

19 C. The medical certification shall be completed and
20 signed within [~~forty-eight hours~~] ten days after death by the
21 physician or nurse practitioner in charge of the patient's care
22 for the illness or condition that resulted in death, except
23 when inquiry is required by law. Except as provided in
24 Subsection D of this section, in the absence of the physician
25 or nurse practitioner, or with the physician's or the nurse

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1 practitioner's approval, the medical certification may be
2 completed and signed by the physician's associate physician or
3 the nurse practitioner's associate nurse practitioner, the
4 chief medical officer of the institution in which death
5 occurred or the physician who performed an autopsy on the
6 [~~decedent~~] deceased; provided that the individual has access to
7 the medical history of the case and views the deceased at or
8 after death and that death is due to natural causes. A viewing
9 after death by an investigator from the office of the medical
10 investigator may substitute for a viewing by the physician.

11 D. Unless there is reasonable cause to believe that
12 the death is not due to natural causes, a registered nurse
13 employed by a nursing home may pronounce the death of a
14 resident of the nursing home and a registered nurse employed by
15 a hospital may pronounce the death of a patient of the
16 hospital. The nurse shall have access to the medical history
17 of the case and view the deceased at or after death, and the
18 individual who completes the medical certification shall not be
19 required to view the deceased at or after death. The death
20 shall be pronounced pursuant to procedures or facility
21 protocols prescribed by the hospital for patients or by the
22 physician who is the medical director of the nursing home for
23 residents. The procedures or facility protocols shall ensure
24 that the medical certification of death is completed in
25 accordance with the provisions of Subsection C of this section.

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1 E. Unless there is reasonable cause to believe that
2 the death is not due to natural causes, a deputy medical
3 investigator designate employed by an outpatient hospice
4 program, trained and certified by the office of the medical
5 investigator, may pronounce the death of a hospice patient.
6 The deputy medical investigator designate shall have access to
7 the medical history of the deceased's case and view the
8 deceased at or after death, and the individual who completes
9 the medical certification shall not be required to view the
10 deceased at or after death. The death shall be pronounced
11 pursuant to procedures established by the office of the medical
12 investigator. The hospice protocols shall ensure that the
13 medical certification of death is completed in accordance with
14 the provisions of Subsection C of this section.

15 ~~[E.]~~ F. For purposes of this section:

16 (1) "hospital" means a public hospital, profit
17 or nonprofit private hospital or a general or special hospital
18 that is licensed as a hospital by the department of health;

19 (2) "nurse practitioner" means a registered
20 nurse who is licensed by the board of nursing for advanced
21 practice as a certified nurse practitioner and whose name and
22 pertinent information are entered on the list of certified
23 nurse practitioners maintained by the board of nursing; and

24 (3) "nursing home" means any nursing
25 institution or facility required to be licensed under state law

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1 as a nursing facility by the public health division of the
2 department of health, whether proprietary or nonprofit,
3 including a skilled nursing [~~home facilities~~] facility.

4 [~~F. When death occurs without medical attendance as
5 set forth in Subsection C or D of this section or when death
6 occurs more than ten days after the decedent was last treated
7 by a physician, the case shall be referred to the state medical
8 investigator for investigation to determine and certify the
9 cause of death.~~]

10 G. An amended death certificate based on an
11 anatomical observation shall be filed within thirty days of the
12 completion of an autopsy report."

13 SECTION 21. Section 24-14-23 NMSA 1978 (being Laws 1961,
14 Chapter 44, Section 21, as amended) is amended to read:

15 "24-14-23. PERMITS--AUTHORIZATION FOR FINAL
16 DISPOSITION.--

17 A. For deaths or spontaneous fetal deaths [~~which~~]
18 that have occurred in this state, no burial-transit permit
19 shall be required for final disposition of the remains if the
20 disposition occurs in this state and is performed by a funeral
21 service practitioner or direct disposer.

22 B. A burial-transit permit shall be issued by the
23 state registrar or a local registrar for those bodies [~~which~~]
24 that are to be transported out of the state for final
25 disposition or when final disposition is being made by a person

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1 other than a funeral service practitioner or direct disposer.

2 C. A burial-transit permit issued under the law of
3 another state or country ~~[which]~~ that accompanies a ~~[dead]~~ body
4 or fetus brought into this state shall be authority for final
5 disposition of the body or fetus in this state.

6 D. A permit for disinterment and reinterment shall
7 be required prior to disinterment of a ~~[dead]~~ body or fetus
8 except as authorized by ~~[regulation]~~ rule or otherwise provided
9 by law. The permit shall be issued by the state registrar or
10 ~~[state]~~ the office of the medical investigator to a licensed
11 funeral service practitioner or direct disposer.

12 E. A permit for cremation of a body shall be
13 required prior to the cremation. The permit shall be issued by
14 the ~~[state]~~ office of the medical investigator to a licensed
15 funeral service practitioner, direct disposer or any other
16 person who makes the arrangements for final disposition. The
17 office of the medical investigator shall establish a fee for
18 this permit. Permit fees shall be paid at the time the permit
19 is requested."

20 SECTION 22. REPEAL.--

21 A. Sections 24-11-1 through 24-11-9 NMSA 1978
22 (being Laws 1971, Chapter 112, Sections 1 through 3 and 10,
23 Laws 1961, Chapter 91, Sections 2 and 3, Laws 2003, Chapter
24 191, Section 2 and Laws 1961, Chapter 91, Sections 4 through 6,
25 as amended) are repealed.

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B. Section 66-7-211 NMSA 1978 (being Laws 1978,
Chapter 35, Section 400, as amended) is repealed.

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