

October 2, 2009

### **Position of the Minnesota Coroners' and Medical Examiners' Association**

Medical examiners can and should review, offer opinions on, and testify on cases **from outside their own jurisdiction**, as long as they are doing it on their private time (or, where appropriate, in a manner sanctioned by their employer).

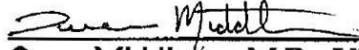
- Given the scarcity of forensic pathologists in the United States, impeding the ability of defense attorneys to consult with them—whether by contract or coercion—will escalate the costs of trials as attorneys are forced to look outside Minnesota for second opinions. This could potentially interfere with the defendant receiving a fair trial.
- Credible experts may have legitimate differences of opinion.
- Any credible expert, whether consulting for the defense or the prosecution, is going to be consistent in his/her testimony regardless of who requested the testimony, recognizing that medical science is not static and may evolve over time. Ethical experts consistently testify only as to what they believe to be true. By the same token, ethical attorneys ask their experts for honest appraisals of the evidence.
- An expert consulting with the defense often assists *both* sides in the criminal process. In many (if not most) instances, the opinion of an outside expert is in agreement with the original medical examiner, helping the defense attorney more realistically assess his/her client's situation and facilitating a willingness to work with the prosecutor.
- Review of any medical examiner's work by an outside expert represents the highest form of quality control.
- Any expert's credibility is enhanced when s/he has the latitude to look at cases for the "other side," and is not perceived as beholden only to the prosecution. Indeed, an expert forced to testify only for the prosecution will quickly and easily be impeached on cross examination, and left with no credibility.
- In order to maintain their independence and credibility, medical examiners should not be forced to relinquish their independence by contractually requiring that they not perform criminal defense work in the State of Minnesota.

In summary, for preservation of a fair and just judicial system, it is imperative that medical examiners remain independent officials, and be available for consultation for both prosecuting and defense attorneys in Minnesota.

Sincerely,



Donald L. Deye, M.D., President



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