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| **POLICY TITLE:** | **RELIGIOUS OBJECTION TO AUTOPSY** |
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**Related Policies:**

***Case Writing – General Case Format***

***Next of Kin Notifications***

***Postmortem Exams Autopsy Guidelines***

***Scene Protocol***

**POLICY DESCRIPTION:**

Effective July 1, 2015 the Minnesota State Medical Examiner statute (390) officially recognizes a decedent’s right to object to an autopsy on religious grounds. The Medical Examiner’s Office will recognize any objection to autopsy, but only those with religious grounds are subject to statutory review. A religious objection must be made to the Medical Examiner by the representative with the right to control the disposition defined in MSS 149A.80 (see ME NOK hierarchy).

**Compelling State Interest**

A compelling state interest is the circumstances under which the Medical Examiner is allowed to order and complete an autopsy without delay in spite of a religious objection.

Those circumstances include:

* Suspected crimes or suspicious deaths
* Public health threats
* Unexpected or unexplained deaths in children
* Deaths associated with police action
* Deaths of vulnerable adults, including prisoners
* Workplace injuries
* Electrocutions
* Drowning
* Unidentified or skeletonized remains
* Fires or explosions

If a compelling state interest exists, and is not defined above (e.g. MVA’s, drug overdose, medical opinion of the pathologist) then the Medical Examiner has the right to seek a court order to complete the autopsy.

**Notification of Autopsy**

The Medical Examiner Investigator shall make notification to the representative of the decedent, within 24 hours of the discovery of the death, of the intent to perform an autopsy. If no representative is located and notified within 24 hours, the autopsy may proceed without delay.

**Documentation**

Medical Examiner Investigators must provide verbal or written material to the representative explaining the death investigation process and web site address to locate this material. If the family is present, written information shall be provided to them. If notification is made verbally, the website address shall be provided and written materials will be sent to the legal representative via US mail.

Written materials include:

* Information for Families Brochure

Website

* www.hcmeo.us
* The website will contain additional information for families and links to current statutes

Medical Examiner personnel are required to document and maintain indefinitely a record of communication with the representative. This documentation shall contain at a minimum the following information:

* Name and relation of the representative
* Date and time of notification of the intent to perform an autopsy
* Objections or lack thereof
* Confirmation that written or verbal information on the death investigation process was provided

Example 1 *“05.18.15 at 0900 hrs, spoke with Joe Smith, father of Sam Smith. He was advised of the need for autopsy and offered no objections. A brochure for families was provided.”*

Example 2 *“05.18.15 at 0900 hrs, spoke with Joe Smith, father of Sam Smith. He was advised of the need for autopsy and objected based on the decedent’s religious beliefs. Mr Smith was provided the website address for additional information.”*

**Custody of the Body**

The body of the decedent will be brought into the Medical Examiner’s Office if an autopsy is warranted, despite any religious objection to the post mortem examination. The family must be assured that no post mortem examination will be done until the case is reviewed by the CME or designee.

In cases of religious objection, the body shall NOT be released to the funeral home and placed on hold.

If no autopsy is done, the family will be notified of the decision and requested to provide an affidavit before the body will be released to the funeral home.

**Affidavit of Religious Beliefs**

If a religious objection to autopsy is made, the Medical Examiner will require, pursuant to statute, that the legal representative provide an affidavit stating the following:

* Name of the legal representative
* Relation to the decedent
* Religious affiliation of the decedent
* Affirmation of the religious objection by the decedent
* Basis for the objection
* Assumption of the duty to complete the disposition of the remains

**Objection Process**

If the representative of the decedent does not object to an autopsy, then the autopsy can proceed without delay.

If the representative does object to an autopsy, but the objection is not on religious grounds the staff physician will review the objection and proceed without statutory review.

If the surviving relative does object to an autopsy based on religious grounds, then:

* The autopsy can be performed without delay if the circumstances are defined as a compelling state interest in statute (see above) and approved by the CME or designee.
* The objection can be recognized and the autopsy waived, with an affidavit from the representative. Direct the representative to seek legal counsel for the requirements of the affidavit. Upon receipt of the affidavit, the remains can be released.
* If a compelling state interest not defined in statute is present, the Medical Examiner may bring action in District Court for an order to perform the autopsy.