



NATIONAL COMMISSION ON FORENSIC SCIENCE

NIST
National Institute of
Standards and Technology
U.S. Department of Commerce

Views of the Commission Recognizing the Autonomy and Neutrality of Forensic Pathologists

Type of Work Product:

Adjudication of Public Comments on Draft Views Document on Recognizing the Autonomy and Neutrality of Forensic Pathologists

Public Comment Summary:

Comments were received from two well-respected forensic pathologists. One person had concern that autonomy and independence can have a possible downside by distracting one's attention and/or time from his/her primary job to the detriment of the primary office for which he/she works. The Subcommittee agrees with these concerns but feels that the concerns are addressed by the Views Document's wording about conflicts of interest and limitations regarding outside work on government (or primary employer) time.

The second comment was that forensic pathologists need to be encouraged to routinely discuss their findings with prosecuting and defense attorneys in their routine cases, not just on outside consult cases. Wording was added to make this point.

Adjudication Process Used by Subcommittee:

Using an on-line project management system, the leader of the Autonomy and Independence project reviewed public comments then prepared an adjudication summary and red-lined edited Views Document which was posted on the on-line system for review by the Project Team. After approval, the documents were then made available on-line to the entire MDI Subcommittee for review. There were no objections to the documents and they were approved then forwarded to the Commission.

Itemized Issues and Adjudication Summary:

1. Dr Fierro Comment: Systems that prohibit forensic pathologists from outside work or consulting do so because:
 - 1) Experience has shown that private practice work intrudes on the workday with phone calls, use of government equipment for literature searches, research etc
 - 2) Time out of the office to testify or for depositions intrudes upon the efficiency and work load of other pathologists in the office.
 - 3) In time, the tail can wag the dog instead of the other way around.
 - 4) It has nothing to do with the independent thought or medical decision making of the pathologist.

5) It causes upset with the schedule.

Agree. The issues above are characterized in the view statement: “Conflict-of-interest rules pertaining to private consult work need to be narrowly defined (e.g. salaried pathologists are only restricted from personal gain on cases that fall in their jurisdiction, or be limited from doing private work on government time or with government resources)...”

2. Dr. Prahlow Comment: Although the "Views of the Commission" section is quite clear on the issue of FPs being allowed to discuss a case within their jurisdiction with defense attorneys, the background section tends to downplay this issue and focus on the performance of "outside" consults. I believe that it is important to also emphasize within the "Background" section the fact that FPs should be allowed (and encouraged) to discuss case findings with defense attorneys, as well as prosecutors, in cases investigated as part of their normal daily work. I would therefore suggest adding a short paragraph that specifically deals with this issue.

Agree. The words “and encouraged” and “routinely” have been added to the opening view paragraph.