

The National Association of Medical Examiners ®

430 Pryor St SW, Atlanta, GA 30312

404-730-4781



To: Florida Medical Examiners Commission
From: National Association of Medical Examiners Executive Committee
Date: January 15, 2007
Re: Charles F. Siebert Jr., M.D.

Members of the Florida Medical Examiners Commission:

In a letter dated August 28, 2006, the National Association of Medical Examiners (NAME) offered assistance to the Florida Medical Examiners Commission (MEC) in the situation involving Charles F. Siebert Jr, M.D. As of today's date, our organization has not received any official response from the MEC regarding our offer to assist in this matter.

In the meantime, NAME has been contacted directly by Dr. Siebert, and he has requested NAME's assistance in dealing with this matter. In keeping with our bylaws, which state that one of the purposes of our organization is "to assist and support the NAME membership," the current NAME leadership is compelled to address the issue at hand. In doing so, please recognize that our organization is offering these comments, not as an entity biased toward one side or the other, but as a professional organization committed to the success of medical examiner systems. As mentioned in the original letter to the MEC, NAME's involvement in any proceeding is limited by our bylaws, which state that the organization, in discussing administrative, career and operational problems affecting medical examiners, may not offer opinions regarding specific death investigations or trials to third parties. In light of the fact that the high-profile, boot-camp death that presumably initiated the complaint against Dr. Siebert was specifically excluded from the Probable Cause Panel investigation which followed, the NAME

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leadership believes that it is appropriate and acceptable to review and comment on the situation.

Dr. Siebert has provided to NAME copies of the following items:

- The complaint filed by Attorney General Charlie Crist (April 21, 2006)
- Dr. Fred Hobin's audit report (July 4, 2006)
- A Florida Department of Law Enforcement report (July 11, 2006)
- A Probable Cause Panel report (July 31, 2006)
- Florida MEC minutes (August 9, 2006)
- Administrative complaint (August 29, 2006)
- F.S. 406
- F.A.C. 11-G
- Practice Guidelines for Florida Medical Examiners
- Dr. Siebert's Dispute of Audit

As the leading professional organization representing forensic pathologists and medical examiners within the United States, NAME is committed to the promotion of excellent medicolegal death investigation. The leadership of NAME fully recognizes that our organization has no legal authority in the situation involving Dr. Siebert. However, it is obvious that NAME is held in high-regard by the individuals involved in the current proceedings, since Dr. Hobin's audit and the Probable Cause Panel's report specifically refer to "NAME criteria" as a basis for their findings. This being the case, and acknowledging that the only information that we have in regard to this issue has been provided to us by Dr. Siebert, the National Association of Medical Examiners respectfully submits to the Florida Medical Examiners Commission the following comments.

- 1) The "NAME criteria" that the report refers to and that were reportedly used as a basis for the audit (Appendix A in Dr. Hobin's audit) are not, nor have they ever been, officially endorsed by the National Association of Medical Examiners. The document was actually a Sample Autopsy Report Review form from New Mexico, available on the NAME website. The audit specifically refers to the document as "National Association of Medical Examiners published guidelines." The implication is that the document is officially endorsed by NAME and that it was officially "published." Neither of these is true. Of note

is the fact that NAME *did* officially endorse Forensic Autopsy Performance Standards at the NAME Annual Meeting in the fall of 2005.

- 2) Without a detailed analysis of each of the "errors sufficient to be recognized as incompatible with NAME criteria" which are delineated in the audit, it appears that a majority of these so-called "errors" might more appropriately be considered "variant opinions" regarding the application of "flexible working criteria" within the "context of the complexity and circumstances for each individual case." Dr. Siebert's dispute of these appears sound, reasonable, and adequately supported by reference to appropriate guidelines and regulations.
- 3) It does, in fact, appear that Dr. Siebert, by his own admission, has made occasional minor errors. While important to note and attempt to avoid such errors, these do not appear to be sufficient to warrant labeling Dr. Siebert's autopsies and autopsy reports as "fundamentally flawed." None of these errors had a bearing on the correct determination of the cause or manner of death.
- 4) Regarding the terms of probation given to Dr. Siebert, it should be noted that current NAME Standards do not require dictation to occur contemporaneously with the autopsy examination. Dictation method is a matter of individual choice. Likewise, NAME Standards do not prohibit the use of templates. Again, this is a matter of individual choice.
- 5) Although the Probable Cause Panel concluded that Dr. Siebert did violate Florida Statutes and was negligent in performing his duties, it is interesting to note Dr. Hobin's first observation: "Dr. Charles Siebert is a competent forensic pathologist."
- 6) The issue that initiated the call for an investigation of Dr. Siebert was a specific high-profile case in which Dr. Siebert's opinions as to cause and manner of death were questioned. Competent forensic pathologists may disagree regarding their opinions as to the cause and manner of death. Both sides of a particular argument may present logical, rational, and even scientifically-backed evidence as support for their opinion, yet be in disagreement regarding the interpretation of the findings in a particular case. When such a disagreement involves the possibility that a homicide has occurred, it is

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appropriate to present both sides of the issue within the legal system. This is true whether or not the pathologist agrees with the government's side of a particular argument. If, instead, the government attempts to discredit, harm, or otherwise influence a competent forensic pathologist in an effort to advance an opinion different from that of the forensic pathologist, the entire process becomes an issue of intimidation rather than argument.

In summary, we would like to reiterate our concern regarding the document that was inappropriately attributed to the National Association of Medical Examiners in this case. We would also like to emphasize the very important fact that the auditor in this case had an overall favorable impression of Dr. Siebert and his work, a conclusion that should not be overlooked. Despite some minor errors in a small percentage of Dr. Siebert's work, none of these interfered with arriving at the appropriate conclusions regarding the determination of cause and manner of death, his primary responsibility under the law. Finally, the National Association of Medical Examiners respectfully encourages the Florida Medical Examiner Commission to be mindful as you continue your very important deliberations in this case, recognizing that any decision you make may have far-reaching implications and effects on the ability of medical examiners to serve the public, and on the practice of forensic pathology in general.

Sincerely,

The National Association of Medical Examiners Executive Committee

Joseph A. Prahlow, MD (President 2007, Vice-President 2006)

John Hunsaker, MD JD (Chairman of the Board 2007, President 2006)

John Howard, M.D. (Secretary-Treasurer, 2006-7)

Fred Jordan, MD (Chairman of the Board 2006)

Jeffrey Jentzen, MD (Vice President 2007, Executive Committee 2006)

Thomas Andrew, MD (Executive Committee, 2007)

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Tracey Corey, MD (Executive Committee, 2006)

Gregory Schmunk, MD (Executive Committee, 2007)