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CH. 81 POST-MORTEM EXAMINATION ACT

CHAPTER 81
POST-MORTEM EXAMINATION ACT

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NOTE: References to “Director of Public Safety” were amended to “Chief of Police” pursuant to P.L. 17-078:1 (Dec. 12, 1984), which repealed the existing GC § 5102 and created the Guam Police Department and the Chief of Police.

§ 81101. Commission on Post-Mortem Examinations.

A Commission on Post-Mortem Examinations is hereby established. The members of the Commission shall be the Attorney General, the Chief of Police, the Director of the Department of Public Health and Social Services, the President of the Guam Medical Society, and the Administrator of Guam Memorial Hospital. The Commission shall elect one of its members as Chairman and one as Vice-Chairman. Members of the Commission shall receive no compensation but they shall be repaid their actual expenses incurred in service of the Commission. The Commission shall meet as often as the duties require, and upon call of the Chief Medical Examiner.

SOURCE: GC § 49100; repealed and reenacted by P.L. 11-037 (May 8, 1971).

§ 81102. Office of Post-Mortem Examinations.

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The Office of Post-Mortem Examinations is hereby established, to be operated under the control and supervision of the Commission. The Office shall be directed by a Chief Medical Examiner, and may employ such assistant medical examiners, pathologists, toxicologists, laboratory technicians, regional medical examiners and other staff members as the Commission may specify. The Commission shall in advance of appointments specify the qualifications required for each position in terms of education, experience and other relevant considerations. Staff members, other than Medical Examiner, shall be subject to such rules, as the Commission may prescribe, provided that such rules shall conform to the Civil Service laws of Guam.

SOURCE: GC § 49101; repealed and reenacted by P.L. 11-037 (May 8, 1971).

2023 NOTE: Reference to “territory” replaced with “Guam” pursuant to 1 GCA § 420.

§ 81103. Chief Medical Examiner.

(a) The Chief Medical Examiner shall be named by the Commission to serve for such term and at such salary as the Commission may fix. He may as part of his duties teach medical or law school classes, conduct special classes for police investigators, and engage in other activities related to the work of his office to such extent and on such terms as may be authorized by the Commission. Similar authorizations may be given by the Commission to other members of the staff. He shall serve as Secretary to the Commission.

(b) Locum Tenens Exemption During the Absence of the Chief Medical Examiner. The Office of the Chief Medical Examiner is exempt from the government of Guam Procurement Law in contracting for the professional services of a qualified medical examiner to be provided when the Chief Medical Examiner is absent from work.

SOURCE: GC § 49102; repealed and reenacted by P.L. 11-037 (May 8, 1971). Amended by P.L. 30-017:2 (Apr. 17, 2009). Subsection (b) added as uncodified law by P.L. 32-068:XII:8 (Sept. 11, 2013). Codified to this section by the Compiler.

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2013 NOTE: Pursuant the authority granted by 1 GCA § 1606, numbers and/or letters were added to adhere to the Compiler's alpha-numeric scheme.

§ 81103.1. Minimum Qualifications for Chief Medical Examiner.

The Chief Medical Examiner shall be a citizen, a permanent resident of the United States, or a person whose immigration status with the U.S. Immigration legally allows him to work in the United States, and a physician licensed to practice his profession in Guam. He must have current certification in Forensic Pathology by the American Board of Pathology or the American Osteopathic Board of Pathology or their successors.

SOURCE: Added by P.L. 30-017:3 (Apr. 17, 2009).

§ 81104. Deaths to Be Investigated.

The Office of Post-Mortem Examinations shall investigate all human deaths providing such deaths in the opinion of the Chief Medical Examiner arose from the following causes:

- (a) Violent deaths, whether apparently homicidal, suicidal or accidental, including but not limited to deaths due to thermal, chemical, electrical or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not;
- (b) Sudden deaths not caused by readily recognizable disease;
- (c) Deaths under suspicious circumstances;
- (d) Deaths of persons whose bodies are to be cremated, dissected, buried at sea, or otherwise disposed of so as to be thereafter unavailable for examinations.

SOURCE: GC § 49103; repealed and reenacted by P.L. 11-037 (May 8, 1971).

§ 81105. Autopsies.

Autopsies may be conducted by the Office of Post-Mortem Examinations in the following cases:

- (a) Deaths caused by violent deaths whether apparently homicidal, suicidal or accidental, including but not limited to

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deaths due to thermal, chemical, electrical or radiational injury, and deaths due to criminal abortion, whether apparently self-induced or not;

(b) Sudden deaths not caused by readily recognizable diseases;

(c) Deaths upon suspicious circumstances;

(d) Deaths of persons whose bodies are to be cremated, dissected, buried at sea or otherwise disposed of so as to be thereafter unavailable for examinations;

(e) Deaths related to disease which might cause a threat to public health.

The Office of Post-Mortem Examinations shall further conduct autopsies whenever so ordered by the Attorney General or a court of competent jurisdiction.

SOURCE: GC § 49104; repealed and reenacted by P.L. 11-037 (May 8, 1971).

§ 81106. Same: Traffic Deaths.

In the event a person who was driving the car dies within four (4) hours as a result of a traffic accident related injury from the time of its occurrence and there is reasonable cause to believe that such person was driving under the influence of alcohol, a blood sample will be immediately obtained under the supervision of the Chief Medical Examiner for the purpose of determining the blood alcohol level of the deceased person which blood analysis test is to be conducted by or under the supervision and direction of the Chief Medical Examiner. The results of the test are to be provided to the Guam Police Department.

SOURCE: GC § 49104.1, as added by P.L. 13-127 (Jan. 27, 1976).

§ 81107. Cooperative Action.

(a) All law enforcement officers, prosecuting attorneys, and other officials shall cooperate fully with the Office of Post-Mortem Examinations in making the investigations and conducting the autopsies herein provided for. Such officials and all physicians, undertakers, embalmers and other persons shall promptly notify the Office of the occurrence of all deaths coming

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to their attention which under this Chapter are subject to investigation by the Office, and shall assist in making dead bodies and related evidence available to the Office for investigations and autopsies. In cases of apparent homicide or suicide, or of accidental death the cause of which is obscure, the scene of the event shall not be disturbed until authorization by the appropriate law enforcement officials.

(b) Any physician, undertaker or embalmer who wilfully fails to comply with this Section shall be guilty of a violation.

SOURCE: GC § 49105, as amended by P.L. 13-187 (Sept. 2, 1976).

§ 81108. Laboratories.

The Office of Post- Mortem Examinations shall maintain a laboratory or laboratories suitably equipped with medical, scientific and other facilities for performance of the duties imposed by this Chapter. Laboratories may be maintained in collaboration with Guam Police Department, Guam Memorial Hospital and other agencies in Guam which have facilities that can be usefully employed in performing the duties of the Office. The manner of compliance with this Section shall be in the discretion of the Commission.

SOURCE: GC § 49106; repealed and reenacted by P.L. 11-037 (May 8, 1971).

2023 NOTE: Reference to “Territory” replaced with “Guam” pursuant to 1 GCA § 420.

§ 81109. Fees, Rules, and Regulations.

Subject to the Administrative Adjudication Law, the Commission may promulgate fees, rules, and regulations necessary or appropriate to effectively carry out the provisions of this Chapter.

SOURCE: GC § 49107; repealed and reenacted by P.L. 11-037 (May 8, 1971). Amended and renamed by P.L. 36-116:2 (Nov. 9, 2022).

§ 81110. Records and Reports.

The Office of Post-Mortem Examinations shall keep full and complete records, properly indexed, giving the name, if known, of every person whose death is investigated, the place where the body was found, the date, cause and manner of death, and all other

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relevant information concerning the death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall be a part of the record in each case. The Office shall promptly deliver to the prosecuting attorney having criminal jurisdiction over the case copies of all records relating to every death as to which further investigation may be advisable. The Attorney General or Chief of Police may upon request secure copies of such records or other information deemed necessary by him to the performance of his official duties. Private persons may obtain copies of records upon such conditions and payment of such fees as may be prescribed by the Commission provided no person with a legitimate interest therein shall be denied access thereto.

SOURCE: GC § 49108; repealed and reenacted by P.L. 11-037 (May 8, 1971).

§ 81111. Records as Evidence.

The records of the Office of Post-Mortem Examinations, or transcripts thereof certified by the Chief Medical Examiner, are admissible in evidence in any court of Guam, except that statements by witnesses or other persons and conclusions upon extraneous matters are not hereby made admissible. The person preparing a report or record given in evidence hereunder may be subpoenaed as a witness, in any civil or criminal case, by any party to the cause.

SOURCE: GC § 49109; repealed and reenacted by P.L. 11-037 (May 8, 1971).

2023 NOTE: Reference to “territory” replaced with “Guam” pursuant to 1 GCA § 420.

§ 81112. Fees; Fund; Annual Audit.

(a) Fees. The Commission is authorized to impose fees reasonably necessary for the Office of Post-Mortem Examinations to carry out its duties and responsibilities as required or authorized by this Chapter, or rules and regulations adopted under this Chapter. The Commission is further authorized to amend any adopted fees through the Administrative Adjudication Law-Rule Making Procedures of Article 3, Chapter 9, Title 5, Guam Code Annotated. Fees shall be paid to the Treasurer of Guam.

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(b) Fund. There is hereby established a special fund known as the Office of Post-Mortem Examinations Operations Revolving Fund (Fund), specifically for use by the Office of Post-Mortem Examinations for its operations. The Fund shall be maintained separate and apart from other funds of the government of Guam, and independent records and accounts shall be maintained in connection therewith. All fees paid to the Treasurer of Guam for services provided by the Office of Post-Mortem Examination shall be deposited into the Fund. Monies in the Fund shall be appropriated continuously and shall not be subject to any transfer authority of *I Maga'hågan Guåhan*.

(c) Annual Audit. The Office of Public Accountability, or its equivalent, shall audit the fund annually with reports to be submitted to *I Maga'hågan Guåhan* and the Speaker of *I Liheslaturan Guåhan*.

SOURCE: Added by 36-116:4 (Nov. 9, 2022).

§ 81113. Severability.

If any provision or application of this Chapter is held invalid, such invalidity shall not affect other provisions or application of the Chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this Chapter are declared to be severable.

SOURCE: GC § 49110. Codified by the Compiler as 10 GCA § 81112. Renumbered by P.L. 36-116:3 (Dec. 28, 2022).
