



*American Academy of Forensic Sciences
American Society of Crime Laboratory Directors
International Association for Identification
International Association of Coroners and Medical Examiners
National Association of Medical Examiners
Society of Forensic Toxicologists/ American Board of Forensic Toxicology*

3/5/2025

The Honorable Robert F. Kennedy, Jr.
Health and Human Services Secretary of the United States
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Kennedy,

The Consortium of Forensic Science Organizations (CFSO) represents thousands of medical examiners and coroners (MECs) who conduct the mandated death investigations in the United States.

Recently, a new rule was issued by Health and Human Services (HHS) requiring an attestation by MECs for access to protected health information that is potentially related to reproductive health care (45 CFR 164.509). It requires medical examiners and coroners (MEC) to sign an attestation that states the requested use or disclosure of medical records is not for certain prohibited purposes. This new rule has led to unintended consequences that have hindered medicolegal death investigation across the US.

This additional attestation requirement is not needed for MECs as there is a standard HIPAA exemption for disclosure of medical records to MEC (45 CFR 164.512 (g)(1)) and penalties already apply for improper release of protected health information. Although this attestation should allow MECs still to obtain this health information, this new requirement has caused confusion among health care providers and resulted in the loss of access to medical records in some jurisdictions. Simply put, without this access, MECs will not be able to perform proper death investigations.

MECs need medical information in a timely fashion to help facilitate organ donation, make identifications, obtain next-of-kin contact information, investigate homicides, and decide if a death needs an autopsy. The delay in obtaining these records impedes their ability to fulfill their statutory duties. For example, most organ donors are dying from trauma that results in an MEC investigation. MECs must investigate these deaths prior to donation to ensure that the donation will not impair a subsequent death investigation (e.g., a homicide). MECs review medical records in real time to make these determinations. If they must wait hours or days to obtain this information, organ donor teams may miss the window for transplantation. This also results in delays for families to proceed with their funeral arrangements and collect insurance benefits by delaying the certification of the death.

The requirement to use this form has resulted in hospitals blocking MECs' access to the electronic health record and requiring a completed attestation for every death investigation. With this new rule, records must be requested by submitting a form to the medical records department. Requiring this form submission further burdens an already overworked and understaffed MEC profession. It also puts a burden on medical records departments, and it can take them hours or days to respond to these requests. Large offices request thousands of medical records per year. The "few minutes" that it takes to complete, send, and then document receipt of this form adds up to significant delay in providing important and timely answers for the families of deceased.

We would greatly appreciate the assistance of HHS in providing further guidance/clarification that may help this situation. For example, by stating that MEC are still entitled to these records and that it would be sufficient for MEC to do a single attestation once per year per hospital. The model HHS form appears to allow for this grouping option as it includes wording for a "class of individuals."

POC: Beth Lavach, 703-622-8752, bethlavach@elsandassociates.com
