

House Committee on Behavior Health and Health Care
Oregon State House of Representatives
RE: HB 4003

Chair Nosse, Vice-Chairs Nelson and Goodwin and Members of the Committee for the record I am Timothy Grisham, Deputy Director for the Washington Association of County Officials testifying neutral on HB 4003.

Nearly a decade ago the Washington Association of Coroners/Medical Examiners (WACME) and the Washington Association of County Officials (WACO) identified a disparity of medical death investigation services among Washington's 39 counties. To best serve all of Washington's citizens no matter what geographic location or size of community, WACME and WACO created a policy platform that addressed three key elements: ensuring a uniform level of training for all practicing medical death investigators, that all autopsies would be conducted in facilities that meet national standards, and that all counties had access to a board-certified forensic pathologist.

Over the past several years WACME, WACO, and the legislature worked toward achieving this goal. First by addressing the funding mechanism for autopsy reimbursement rates and training dollars, second by providing a uniform case management system that all counties can utilize and access, and third by requiring all medical death investigators be nationally certified and that all autopsies be conducted in nationally accredited facilities.

Yet these moves did not address a shortage of board-certified forensic pathologists working within Washington State. Washington, like most states in the nation, is facing a shortfall of pathologists. To address this issue WACME and WACO worked with Senator Dhingra on SB 5523 to provide both short term aid – and to look at long term sustainable solutions to bolster the supply of forensic pathologists.

In addition to allocating a Conrad 30 slot (J-1 Visa Waiver) through the Department of Health; SB 5523 created a tuition reimbursement model for pathologists serving in underserved counties in Washington, provided reimbursements to counties for the transport of bodies to accredited facilities, allocated marketing dollars for WACME to advertise to the medical community about working in Washington, and created a study to identify the wider issue and address potential long term, sustainable, solutions.

The solutions being studied, among others, include setting up a new forensic pathology program in eastern Washington at the Washington State University and increasing cohort sizes at the University of Washington among other scenarios.

Addressing the shortage of board-certified forensic pathologists is no easy task, the very fact that I am addressing this body today can attest to that fact. But it is my belief that with the collective minds and efforts of the education, medical, health care, and criminal justice communities we may be able to come up with solutions that are professional, accountable, and transparent for our communities.

Thank you for your time, I am happy to answer any questions.

Timothy Grisham, Deputy Director, Washington Association of County Officials

ADDRESSING THE WASHINGTON STATE CRITICAL SHORTAGE OF BOARD-CERTIFIED FORENSIC PATHOLOGISTS

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The nation is in the grip of a nation-wide shortage of board-certified forensic pathologists. As medical school enrollment has climbed, so has an increase in physicians, while forensic pathology has seen steep declines in residency rotations and individuals seeking national certification.

ABOUT THE ROLE OF FORENSIC PATHOLOGIST

Each year, approximately 55,645 people (54,748 adults, 507 fetal, 390 infants), or approximately 1% of Washington's population (7,184 million), die. Following national averages approximately thirty to forty percent (approximately 22,258) of these deaths are referred to the state's 39 medicolegal jurisdictions.

While the role and function of a County Coroner and County Medical Examiner (ME) differ, each provides the administrative oversight and leadership of their respective county's medico-legal system. In both systems the County Coroner and ME hire or contract with board-certified forensic pathologists to provide autopsy services at nationally accredited facilities. The defining difference between a Coroner and Medical Examiner County is that the ME may provide autopsy services as a board-certified forensic pathologist.

A robust forensic pathology community ensures timely and accurate autopsies. Such findings inform programs and practices to identify trends in disease and death, as well as serve as an important tool for preventing endemic and pandemic spread among other roles.

With a rise in deaths related to opioid addiction, many pathologists risk losing certification, while facilities risk accreditation. Current certification and accreditation standards recommend that a board-certified forensic pathologist perform no more than 250 autopsies per year, with the maximum never exceeding 325¹.

¹ ASTHO Forensic Pathologist Shortage Brief. <https://astho.org/ASTHOBriefs/Forensic-Pathologist-Shortages/>

FORENSIC PATHOLOGISTS IN THE UNITED STATES

The opioid epidemic has highlighted the wide-ranging shortage of board-certified forensic pathologists in the United States presenting a workforce challenge for both public health and medio-legal systems.

However, the forensic pathologist shortage did not begin with an opioid epidemic. As early as 2004 the National Association of Medical Examiners began discussing ways to inform Congress about their pathology needs. Seventeen years later population growth, the opioid crisis, and Covid-19 have seen diminishing resources pushed to the limit.

The United States population is growing at approximately 0.8% (2.6 million people) per year. While at the same time we are seeing an increase of 17% in physicians, and an alarming 17% decrease in forensic pathologists².

A 2013 report by the National Association of Medical Examiners (NAME) indicated that 1,100 board-certified forensic pathologists would be needed to cover the nation's autopsy workload. Eight years later, estimates indicate that the nation has fewer than 500 working, full-time, pathologists leading to a national shortage and looming crisis in the medico-legal system. It is currently estimated that 1,000 pathologists would be needed to meet national caseload forecasts³.

Just last year, the National Resident Matching Program (The Match)⁴ had an all-time high of medical school graduates applying for residency matches. Yet, of the 601 pathology residency positions offered nation-wide, only 569 had been filled. Even more striking, pathology accounted for only 1.1% of all matched medical students in the United States.

This means that the prospect for a flood of recently certified pathologists is dim. This is exemplified by 2019 only producing 41 forensic pathology fellows sitting for their board certification – a decline of over 16% from the preceding year.

Even with an increase of board-certified pathologists, the national still faces a shortfall in the time spent practicing forensic pathology with only two thirds of forensic pathologists taking up full time practice after a fellowship training program.

² Dr. Judy Melnek, M.D. "Dirty Smelly, Raw: The Future of Forensic Pathology". Medpage Today, 12/10/2019

³ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice Needs Assessment of Forensic Laboratories and Medical Examiner/Coroner Offices. P. 73
<https://www.justice.gov/olp/page/file/1228306/download>

⁴ The Match is a United States-based private non-profit non-governmental organization created in 1952 to place U.S. medical school students into residency training programs located in United States teaching hospitals.

Pressing matters to the brink, however, is the looming retirement of a generation of pathologists. Over the course of the past decade the average age of a forensic pathologist has shifted from 55 to 60.

One area of concern nationwide is the education pipeline for board-certified Forensic Pathologists. Many career positions in the field currently lack attractive salaries which present challenges for physicians who must pay back their medical student loan debt.

For nearly twenty-five years it has been known that an increase in the availability and quality of forensic science education is in need.⁵ The National Institute for Justice created recommendations as far back as 1999 that set minimum recommendations for designing curricula in forensic science.

While much of these recommendations focus on non-pathologist areas, the report did highlight the need to bolster pathology programs; notably emphasizing a lack of programs west of the Mississippi.

During a US Department of Justice listening session, it was noted that communication during the entire 10-year progression of medical education is needed for a Forensic Pathologist to increase students' exposure to, and foster further interest in, forensic pathology.

FORENSIC PATHOLOGISTS IN WASHINGTON STATE

Currently there are 18 full-time forensic pathologists working in Washington state, of which six also serve as the county Medical Examiner. Of the 18 only three are in Eastern Washington, working out of Spokane County.

With only four full time forensic pathologists operating in Eastern Washington, a disparity in coverage is moving toward a point of crisis. Currently, counties such as Grant County are driving to the west side of the mountains to seek services for pathology in counties such as Snohomish and King.

Washington's 18 full time pathologists are bolstered to a small degree by seven board-certified forensic pathologists offering private contracts with counties. However, there is a location disparity with the contract pathologists, who predominantly serve Western Washington.

Legislation passed in 2021 (HB 1326) recognizes the need for utilizing board-certified forensic pathologists operating in nationally accredited facilities. The bill entered into

⁵ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (1999). Forensic Sciences: Review of Status and Needs. <https://www.justice.gov/olp/page/file/1228306/download>

law a requirement that all autopsies be done by board-certified pathologists in accredited facilities by July 1, 2025⁶.

Knowing that not every county would have the financial means to stand up their own facility with a board-certified pathologist, the statute allows counties to contract with another accredited county for autopsy services. While a coalition of counties are looking into bringing on the services of a contract pathologist, they would be competing in markets that have two advantages over their own. One, location, with fewer populated areas, there are fewer amenities that may attract a pathologist to live full-time. The second is that for early career pathologists, they tend to like to work in groups to learn more after their residency years. Being a lone pathologist for several counties would most likely be taken on by a practitioner at the end of their career which brings us to a looming retirement dilemma.

Of the currently practicing forensic pathologists working in the Washington State medicolegal system, it is estimated that 70% are nearing retirement age – pushing the system to the brink of the ability to provide timely service.

WASHINGTON STATE FORENSIC PATHOLOGY FUNDING

In 1983 Washington State created the Forensic Investigation Council⁷. The thirteen-member council consisting of coroners, prosecutors, law enforcement, and private pathologists are appointed by the Governor and have primary oversight over the Washington state crime and toxicology laboratories.

In addition to the oversight of the laboratories the Council is charged with managing the funding of the death investigation account for the state. Specifically, RCW 43.103.010 (3) empowers the Council to “Provide resources necessary for the performance, by qualified pathologists, of autopsies which are also essential to the criminal justice investigation systems of this state and its counties.”

The primary method for funding autopsies is through the death investigations account⁸ which is funded by fees collected for vital records certificates through the Washington State Department of Health⁹. Out of the death investigations account counties may be reimbursed for the cost of autopsies at the rate of 40% of the cost for Coroner counties contracting a pathologist, and 30% of a forensic pathologist’s salary for Medical Examiner counties¹⁰. In practice these numbers are pro-rated to a “per-autopsy” cost and reimbursed at the appropriate rate.

⁶ RCW 36.24

⁷ RCW 43.103

⁸ RCW 43.79.445

⁹ RCW 70.58A.560

¹⁰ All autopsies related to SIDS are reimbursed at 100% of billed cost

Funding for this reimbursement is paid to the counties' general fund, with a proviso that budgeting cannot be reduced for this cost below the 1983 rate¹¹. Beginning January 1, 2025 all autopsies must be conducted in a nationally accredited facility or 25% of the reimbursement may be held until accreditation is reached.

Until 2023, while the cost of conducting autopsies was reimbursable under current RCW, transportation costs to facilities and back to the county of origin were not. In 2023 the Legislature passed SB 5523 which included cost of transportation for the purposes of autopsies to the reimbursement schema at the rate of 40% of cost.

In addition to state funding, multiple counties in the State of Washington received funds through the Paul Coverdell Forensic Science Improvement Grant. The Coverdell Program awards grants to states and local governments to help improve forensic science and medical examiner/coroner services, including services provided by laboratories operated by states and units of local government.

In addition to the Coverdell grant, the Office of Justice Programs offers a "Strengthening the Medical Examiner-Coroner System" grant of up to \$150,000 with 17 awards nationwide. The program awards in two categories: Forensic Pathology Fellowships and Medical Examiner/Coroner Office Accreditation.

The program was designed to help address the shortage of board-certified Forensic Pathologists, as well as assist offices reach accreditation. Washington State has set a requirement that all autopsies be conducted in accredited facilities by 2025.

IDENTIFYING THE SHORTAGE AS A WORKFORCE NEED

The Washington State Workforce Training & Education Coordinating Board (WTB) has determined that practicing Forensic Pathologists operate under SOC code 29-1222. Currently the WTB does not have standard labor market information (LMI) data for the code.

To move identify Forensic Pathology as a "critical workforce shortage" each of the 12 local Workforce Development Councils would need to work with Employment Security Division (ESD) to add the position as "In-Demand" based on local conditions.

There are 12 regional workforce areas in Washington overseen by Workforce Development Councils¹². Each Council must create a four-year workforce plan that offers a vision for their local workforce development system. The plans are intended to boost the skill levels of the local workforce, increase employment and earnings, raise customer satisfaction for both jobseekers and businesses who rely on a skilled workforce, and offer a good return on investment for both taxpayers and workforce program participants.

¹¹ RCW 68.50.104 (3)

¹² <https://www.wtb.wa.gov/planning-programs/regional-workforce-plans/>

UNIVERSITY OF WASHINGTON RESIDENCY AND FELLOW PROGRAMS

The University of Washington is the state's only program with a forensic pathology residency program. The program typically has seven to nine residents. Additionally, the school has a fellowship program in collaboration with the King County Medical Examiner's Office.

The University of Washington has a one-year Forensic Pathology fellowship program based out of the King County Medical Examiner's Office. During the fellowship year the fellow performs at least 200 complete forensic autopsies, which include external examination, photography, radiography, anatomic dissection, microscopic examination, and interpretation of toxicology analysis. The fellowship is post certification in Anatomic Pathology by the American Board of Pathology and fellows' salaries are funded and determined by the King County Medical Examiner's Office.

CONRAD 30 / J-1 VISA WAIVERS

The "Conrad 30" program allows J-1 foreign medical graduates (FMGs) to apply for a waiver of the two-year foreign residence requirement upon completion of the J-1 exchange visitor program¹³. The program was designed to address the shortage of qualified doctors in medically underserved areas. Application requirements vary by state. Washington's program is administered by the Department of Health.

Washington uses a tiered system for application windows. General Practitioners have the first window to apply for the 30 allocated J-1 visa waiver spots, followed by a window for specialists, and finally all other applicants.

There currently is no prohibition for Forensic Pathologists to apply during the final window of opportunity for the J-1 visa waiver under current WAC¹⁴. However, current WAC determines eligibility based on the clients they serve. This leads a window open for broad interpretation of "who is the client".

Currently Maryland, New Jersey, and Wisconsin provide a prioritized avenue for Forensic Pathologists to apply for the J-1 visa waiver.

In September 2021, based on conversation with WACME and a review of other state's practices, the Washington State Department of Health announced they would designate one of the 30 J-1 visa waiver slots specifically for forensic pathologists.

TUITION REIMBURSEMENT PROGRAMS

Nationwide, tuition reimbursement programs have helped bolster areas of critical work shortages. Programs aimed at general medical practitioners, social workers, and teachers have longstanding success in helping alleviate workforce shortages.

¹³ Section 214(l) of the Immigration Nationality Act (INA)

¹⁴ WAC 246-562-060

The Maricopa County Medical Examiner Loan Repayment Assistance Program (MELRAP) was created to address its shortage of forensic pathologists. The program is funded through the county's general fund (from a share of the state sales and property taxes), the plan reimburses participants each quarter-year for loan payments up to \$25,000 annually, with a \$100,000 maximum benefit. In exchange, participants provide an additional 12 months of service after their last reimbursement, or they are required to repay the county for the last four quarters upon a separation from service.

This professional commitment structure allows flexibility by not obligating a long-term commitment to receive these benefits, and quarterly reimbursements align with operational budgets and build stability into the workforce. The cost of the program was \$25,680 per quarter in FY 2018 (July 2017 to June 2018). The estimated FY 2019 cost is \$47,000 per quarter, with 11 eligible forensic pathologists participating in this program.

Through the program Maricopa County has been able to fill 16 of its 17 forensic pathology positions and has incentivized its staff to serve the county for several years.

In 2023 the Washington State Legislature passed SB 5523 created a loan forgiveness program managed by the Department of Health through WA Health Corps. The loan forgiveness program mirrors similar programs in the state for general practitioners, offering Pathologists working in counties within shortage areas identified by the Forensic Investigations Council up to \$25,000 a year in loan forgiveness/repayment for up to four years. Should the Pathologist exit the position prior to completing their commitment time, they must repay their loan forgiveness/repayment received for the unfulfilled time.

REGIONAL FORENSIC PATHOLOGY CENTERS

Since 2020 the King County Medical Examiner's office has held monthly meetings initially designed to address emergent needs regarding Covid-19 impacts to the medical death investigation field. The meetings, however, changed scope over the course of the pandemic to address all things related to the medical death investigation field. The meetings were open to members of the Washington Association of Coroners/Medical Examiners, their respective staff, as well as a wide variety of health care and legal practitioners.

During the meetings, an idea emerged in early 2022 to create regional centers for the performance of autopsy services. The services would be provided in nationally accredited facilities in alignment with the current statutory requirement¹⁵ requiring all autopsies to be conducted in a nationally accredited facility by a board-certified forensic pathologist or risk a reduction in state autopsy reimbursement dollars.

¹⁵ [RCW 36.24.210](#), [43.101.490](#), [68.50.104](#)

In this proposal, counties with less than 750,000 population as per most current US Census data would benefit from a pool of certified forensic pathologists in a regionalized pathology system that is designed to support the independently elected or appointed County Coroner and Medical Examiner systems in our less populated counties.

The proposal funds this work by charging each county \$1.10 per person in the county utilizing the most current US census data, with the expectation that the FIC would provide an additional 30% of the total funding. Most counties are already spending this amount for autopsy services, with some paying considerably more, and the FIC is currently of 40% of the cost for Coroner counties contracting a pathologist, and 30% of a forensic pathologist's salary for Medical Examiner counties.

Under this proposal doctors can "float" to areas of need as needed for coverage and case load surges. Statistically the eight proposed regions ought to generate about 3,100 autopsy cases/year. Utilizing the regionalized pool concept, each doctor would perform about 183 autopsies per year, well within NAME and IACME guidelines.

Individual counties would retain the responsibility for all other aspects of death investigation in their respective counties.

Funding would be needed to pay for:

- 17 board-certified Forensic Pathologists \$350,000.00/yr
- 17 autopsy techs @\$100,000/yr w/benefits,
- \$400,000.00 to cover transportation and travel costs
- \$136,000.00 for a program manager

Regions:

1. San Juan, Island, Whatcom, and Skagit counties. Average 350 autopsies per year, 2 forensic pathologists based out of the Whatcom County facility.
2. Kitsap, Mason, Jefferson, and Clallam counties. Average 350 autopsies per year, 2 forensic pathologists based out of the Kitsap County facility.
3. Thurston, Grays Harbor, and Lewis counties. Average 360 autopsies per year, 2 forensic pathologists based out of the Thurston County facility.
4. Clark, Pacific, Wahkiakum, Cowlitz, and Skamania counties. Average 590 autopsies per year, 3 forensic pathologists based out of the Clark County facility.
5. Kittitas, Yakima, and Klickitat counties. Average 290 autopsies per year, 2 forensic pathologists based out of the Yakima County facility.
6. Benton, Franklin, Walla Walla, Columbia, Garfield, Asotin, and Whitman Counties. Average 390 autopsies per year, 2 forensic pathologists based out of the Franklin County facility.

7. Okanogan, Chelan, Douglas, Grant, Lincoln, and Adams Counties. Average 200 autopsies per year, 1 pathologist based out of the Grant County facility.
8. Spokane, Pend Oreille, Stevens, and Ferry counties. Average 550 autopsies per year, 3 pathologists based out of the Spokane County facility.

STAKEHOLDERS

- Forensic Investigation Council
- King County Medical Society
- Washington Association of Coroners/Medical Examiners
- Washington Association of County Officials
- Washington State Association of Counties
- Washington State Association of Public Health Officials
- Washington State Department of Health
- Washington State Medical Association
- Washington State Workforce Training and Education Coordination Board

POTENTIAL POLICY OPTIONS

- Identify forensic pathologists as a critical workforce shortage
- State grant/funds for forensic pathology services funded by death certificate vital statistics fee.
- Provide grants to counties to provide forensic pathologist salaries (not just reimbursement incentives for autopsies)
- Increase funding for the UW fellow program
- Create new residency at WSU
- Create new fellow program with Spokane County/WSU with aim at serving Southeast Washington counties
- Create regional forensic pathology centers