

24 September 2012

From: Mark E. Shelly, D.O., Medical Corps, US Navy

To: Arizona Board of Osteopathic Examiners in Medicine and Surgery

Subj: STATEMENT REGARDING "YES" ANSWERS SECTION 8, QUESTIONS #3 AND 7

I am a board certified anatomic and forensic pathologist applying for an unlimited Arizona osteopathic license, and I answered "yes" to Questions #3 and 7 in Section 8. I currently work at Naval Medical Center, Portsmouth, Virginia, and my clinical privileges were suspended in January 2012 pending the results of an investigation into alleged unprofessional behavior. The Commanding Officer of my hospital recommended in June 2012 that my clinical privileges be revoked (see enclosed letter), and a final decision is pending from the Surgeon General of the Navy. The Virginia Board of Medicine was notified of the alleged unprofessional behavior in January 2012 and has completed their investigation. They have issued a Consent Order (enclosed) with a reprimand and monetary fine, which has been paid, and the matter is considered closed. My license is unrestricted and was renewed in April 2012 for two years. The details of the incident in question are listed below.

As part of my duties as the Regional Armed Forces Medical Examiner for the Southeast U.S., on 20 December 2011, I performed an autopsy on a US Marine at Naval Hospital Camp Lejeune, North Carolina. He had been found unresponsive at his home near Camp Lejeune and was not able to be resuscitated. The autopsy demonstrated coronary artery disease as the likely cause of death. Per report and review of his medical record, the Marine had a medical history significant for multiple sclerosis, among other conditions, and therefore I retained his brain for future neuropathological examination at the Armed Forces Medical Examiner System (AFMES) at Dover Air Force Base. After performing the autopsy, I drove home and took the brain and stock jar with me, planning to take these to Naval Medical Center Portsmouth the following morning. This was accepted practice at the time and not in violation of any regulations. I was not comfortable allowing the lab personnel at Camp Lejeune to ship the brain and stock jar due to prior shipping mishaps, and also because of the pending Christmas holiday period with expected shipping delays.

Once I arrived at home, I told my children that I had done an autopsy and retained the brain so that an expert could examine it. My older son and my step-daughter expressed an interest, as they always have with my occupation, so I showed the brain to them and explained what the different parts of the brain are and how it works. I also allowed them to gently feel the brain while wearing plastic mittens. I emphasized respect for the decedent the entire time we examined the brain, which was no more than approximately 3 minutes. Once they had seen it, I placed the brain back in its container and placed the container in a secure location until taking it

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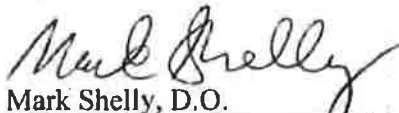
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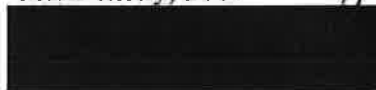
to work the following morning. Once I arrived at work, the brain was placed in 20% formalin and securely stored in the laboratory for two weeks prior to shipment to Dover AFB. Subsequent examination by a neuropathologist at Dover revealed no evidence of multiple sclerosis, as well as no evidence that the brain had been tampered with. The neuropathologist was able to make a complete and thorough examination.

I exercised extremely poor judgment and I wish I could go back and do things differently. During the past several months, I have given serious thought to my actions and how they impacted the family of the deceased. I deeply regret the pain I have caused them. I never intended to do anything disrespectful to the decedent or his family. I have more than learned from my mistake and will never allow something like this to happen again.

In my time as both a Deputy and Regional Medical Examiner with the Armed Forces Medical Examiner System, I have had numerous positive interactions with family members, always seeking to display compassion and understanding when discussing autopsy findings. I have conducted over 250 autopsies at many different facilities as a Deputy and Regional Armed Forces Medical Examiner. With many of my cases, I have had multiple conversations with a single family extending several months after an autopsy, never hesitating to answer their questions. I would never intentionally treat a decedent or family members with disrespect. Numerous colleagues, including other forensic pathologists, clinicians, attorneys, and military and civilian law enforcement personnel, can attest to my professionalism and strong work ethic. During the investigation of the brain incident, it was discovered that I did not file the required paperwork with Naval Medical Center, Portsmouth, prior to beginning part-time employment as a local medical examiner with the Tidewater District of the Virginia Office of the Chief Medical Examiner. This is referenced in item #4 of the Virginia Board of Medicine Consent Order.

As you consider the events in this case, I ask that you please give me the opportunity to obtain an unlimited Arizona osteopathic license. I have received a conditional offer of employment from the Maricopa County Medical Examiner's Office, contingent upon being approved for an Arizona license. I know I made mistakes, but I feel that revocation of my privileges and termination of my staff appointment was unduly harsh under the circumstances that led to the suspension of my privileges. I believe that the positive contributions I have made as both a Deputy and Regional Medical Examiner with the Armed Forces Medical Examiner System and as a hospital pathologist at Naval Medical Center Portsmouth should outweigh my errors in judgment. Please call or email me if you have any questions. Thank you.


Mark Shelly, D.O.



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