

January 30, 2006
OPINION 05-0386

Mr. Jack L. Grindle, M.D.
Coroner
205 Franklin Street
Mansfield, LA 71052

61 Laws-General
R.S. 26:769(D)

By Executive Order of the Governor, the Department of Health and Hospitals is empowered to appoint an office of public health, State Medical Examiner, to exercise control over the disposal of human remains of individuals who died as a result of Hurricane Katrina.

Dear Mr. Grindle:

You have asked this office to advise you by what authority Dr. Louis Cataldie holds the office of state medical examiner. We first refer you to the provisions of R.S. 26:769(D), which authorizes the office of public health to exercise control over the disposal of human remains during a public health emergency. This provision states:

- D. Safe disposal of human remains. The office of public health may, for such period as the state of public health emergency exists, exercise control over the disposal of human remains, as provided for in regulations promulgated in accordance with R.S. 49:950 et seq.

By Executive Order No. KBB 2005-39, signed by the Governor on September 19, 2005 and acting under the authority of Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:724, et seq., the Governor authorized the Secretary of the Department of Health and Hospitals to appoint an Office of Public Health, State Medical Examiner. The executive order provides, in pertinent part:

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:724, *et seq.*, and more specifically R.S. 29:769(D), a state of public health emergency is hereby declared for the purpose of the control and disposition of human remains.

SECTION 2: The secretary of the Department of Health and Hospitals is hereby authorized to appoint an Office of Public Health, State Medical Examiner to exercise control over the disposal of human remains of individuals who died in or as a result of Hurricane Katrina and its aftermath.

SECTION 3: Such appointee is authorized and empowered to set up, operate, and control a regional morgue and autopsy facility (DMORT) in St. Gabriel, Louisiana to receive, identify, and process human remains of those who died in or as a result of Hurricane Katrina collected from the parishes affected by Hurricane Katrina, and throughout the state, for coroners who are unable or unwilling to handle the remains themselves, including but not limited to the parishes of Jefferson Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany, and Washington. Such appointee shall coordinate and cooperate with the coroners of the above parishes in the recovery, retrieval, identification, interment or cremation of hurricane related remains.

SECTION 4: Such appointee is authorized and empowered to order and obtain medical records, including hospital, nursing home, physicians, dental and other useful medical records of possible hurricane decedents to aid in their identification and in order to establish their cause of death.

SECTION 5: Such appointee is hereby authorized to sign death certificates, burial permits, and cremation permits for human remains whose death is related to Hurricane Katrina and its aftermath when the jurisdictional coroner is unidentified, unavailable, unable or unwilling to sign.

SECTION 6: This Order is effective upon signature and shall be applicable from Monday, September 12, 2005, until such time as amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

We enclose a copy of the entire executive order, along with a letter of advice released by this office to the Louisiana Department of Health and Hospitals which provides further information regarding the authority of the State Medical Examiner. Your other concerns are policy-related and should be directed to your state legislator.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Received:

Date Released: January 30, 2006

KERRY L. KILPATRICK

ASSISTANT ATTORNEY GENERAL