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Autopsy reports aren't complete

Deaths at Memorial weren't classified

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By Laura Maggi
Staff writer

When Orleans Parish Coroner Frank Minyard filled out the autopsy reports of nine people who died at Memorial Medical Center in the days after Hurricane Katrina, he left out a key piece of information: his classification of how they died.

The deaths sparked a controversial state attorney general's homicide investigation into the conduct of a doctor and two nurses, which ultimately produced no indictments.

Under state law, an autopsy must include classification of a death as homicide, accidental, suicide, undetermined or under investigation, said Lori Mince, an attorney who represented The Times-Picayune in a successful lawsuit seeking the release of the autopsy reports. The newspaper requested the reports under the public records law this summer.

But the autopsy records Minyard released Monday show only an empty space next to the line "Classification of Death."

Minyard was ordered to release the reports on Friday by Civil District Court Judge Nadine Ramsey, who ruled that the documents are public records.

The newspaper sought autopsy reports for the nine people whose deaths at the hospital were reviewed by an Orleans Parish grand jury. That jury in July declined to indict Dr. Anna Pou on one charge of second-degree murder and nine charges of conspiracy to commit second-degree murder for the deaths of nine frail patients on one floor of the hospital several days after Katrina.

With the classification information missing from the autopsies, it remains unclear what Minyard or his staff concluded about the deaths, or what in the evidence prevented him from drawing any conclusion. His office's evaluation is considered a key component of criminal investigations into homicides, with pathologists typically one of the first witnesses called during a murder trial to describe their findings about how a victim died.

The reports released by the coroner's office also failed to include a narrative that describes what examination of the deceased person's body revealed, Mince said. The coroner on Monday acknowledged that the narratives were not in the released documents, but said they would be released today.

Minyard has said he testified before the grand jury, but it is not publicly known whether he offered opinions beyond the written autopsy reports. When directly asked about his ruling on the manner of death in the Memorial cases two days after the grand jury decision, Minyard declined to answer,

saying that because he testified about that information, he could not repeat it publicly.

"Whatever you tell the grand jury, you cannot tell," Minyard said at the time. In February, before the grand jury began meeting, Minyard told a reporter that he had classified the deaths of the four patients initially considered in the investigation as "undetermined" after evaluating all the available documentation.

The four patients were Emmett Everett Sr., 61; Hollis Alford, 66; Ireatha Watson, 89; and Rose Savoie, 90. When the grand jury considered the case against Pou, they also looked at the deaths of five other patients: Harold Dupas, 78; Elaine Nelson, 90; Alice Hutzler, 90; Wilda McManus, 70; and George Huard, 90. All of the patients were on the seventh floor of Memorial in the LifeCare Hospitals unit. The report the DA prepared for the grand jury said all died on Sept. 1, 2005, the third day after the storm. The autopsies, however, said Hutzler died Aug. 29 and Huard died on or about Aug. 29.

Medicines 'for comfort'

The jury's refusal to indict was applauded by the doctor's supporters, who said it showed there wasn't evidence that Pou tried to euthanize patients at the flooded hospital. Instead, they argue she was trying to provide comfort to very ill patients trapped in a hospital where temperatures rose to 110 degrees.

Pou herself made that point in a September interview with Newsweek magazine, saying that she administered drugs to the patients on the seventh floor to relieve their pain and sedate them.

"Basically what we're trying to do is help the patients. Let me tell you -- God strike me dead -- what we were trying to do was help the patients," she said in the interview. "Any medicines given were for comfort. If in doing so it hastened their deaths, then that's what happened."

Pou, along with two nurses, was arrested on murder charges in the summer of 2006 after an investigation by Attorney General Charles Foti. The attorney general claimed that Pou and two nurses injected some patients with what he called a "lethal cocktail" of morphine and Versed, a sedative. "This is a homicide; it is not euthanasia," Foti said at a July 2006 news conference.

After the arrests, the Memorial probe was turned over to Orleans Parish District Attorney Eddie Jordan, whose office assembled a grand jury to review the case. Jordan subsequently promised not to press charges against the nurses, while requiring them to testify before the grand jurors.

The grand jury on July 24 declared that the allegations against Pou were "not a true bill," an indication that it had found there wasn't sufficient evidence for the charges.

Foti reacted angrily to the grand jury return, calling a news conference where he complained that Jordan's prosecutors hadn't called before the jury five medical experts he hired to evaluate the medical and autopsy records in the deaths. Those experts concluded that at least some of the nine people died as a result of homicide, according to reports Foti released the same day as the grand jury decision.

Foti's experts included two pathologists, a coroner, a cancer specialist and a bioethicist. For example, Dr. Michael Baden, a forensic pathologist, concluded the cause of death for the nine patients was homicide: Eight died of "morphine and Versed poisoning" and one died of "morphine poisoning."

The case Foti put together was controversial, particularly his arrest of Pou and the two nurses before turning the case over to Jordan for a grand jury review. Pou was still in her scrubs after performing surgery when Foti's investigators showed up at her Baton Rouge home.

During Saturday's election, Foti was defeated, narrowly pushed out of the runoff by two challengers. It was a surprising turn of events, as incumbents almost always garner enough votes to get past the primary.

Maggot infestation

The partial autopsy report released by Minyard, which contains one page and a toxicology report, speaks to the difficulties of reviewing the bodies. All but two of the reports detail some level of decomposition, while one noted a "maggot infestation."

The reports show the autopsies were all conducted between Sept. 17 and Sept. 21, 2005, up to three weeks after the deaths, said Rick Simmons, Pou's attorney. Medical experts he contacted cited that lag time as a major difficulty in analyzing the quantities of drugs given to the patients and whether there was enough to kill a person.

The toxicology reports conducted by National Medical Services, a Pennsylvania laboratory, all show various levels of morphine and Versed from different parts of the bodies of each patient, including liver, purge fluid, brain and muscle. But the reports themselves don't make an evaluation of whether the amounts indicate a person was given a harmful level of the drugs. These reports were first released by Foti in a redacted form that blacked out the patients' names, given to reporters along with his experts' evaluations of the cause and manner of deaths.

"The mere fact that there is morphine in the body doesn't tell you that morphine was the cause of death," said Dr. Steven Miles, a professor of medicine at the University of Minnesota. Although Miles reviewed the reports for Simmons, he emphasized he hasn't taken any money for his services.

Simmons also provided a letter from William George, an emeritus professor at the department of pharmacology at Tulane University's medical school, which concluded that the length of time before samples were taken from the body would make it very difficult to determine whether the drugs killed the patients.

What kind of determinations can be made about the deaths likely will be hashed out in civil court. There are three lawsuits pending against Pou, with more pending against Tenet Healthcare Systems, which owned Memorial at the time of the storm, and LifeCare Management Services, the company caring for those patients.

Craig Nelson, an attorney who is the son of Elaine Nelson, said he decided to file a malpractice claim against Tenet and LifeCare. That claim is currently before the medical review panel, he said.

Nelson said he hired a pathologist to look at the toxicology report provided by Minyard; the pathologist made the same determination as Foti's experts -- that the level of morphine in Elaine Nelson's body was enough to kill her.

Public record requests by The Times-Picayune and other organizations for more documents about Foti's investigation into the Memorial deaths were granted by a Baton Rouge judge, but that case is now pending in the 1st Circuit Court of Appeal. Memorial employees have fought the release of the records. One lawyer for the employees has said many cooperated with the investigation and

shouldn't have their information released to the public.

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