To: The Honorable Samuel Thumma & All Members of the Determination of Death Act Committees & Style/Drafting Committees; Uniform Law Commission; 111 N. Wabash Avenue, Suite 1010; Chicago, IL 60602; E-mail: info@uniformlaws.org; Phone: (312) 450-6600

In light of the fact that you may be revising the Uniform Determination of Death Act (UDDA), this urgent letter strongly encourages you to *repeal* and *replace* the current UDDA with the model statute below.

The new Act must protect life until death (certain death, no evidence of biological life). Death is the cessation of the person's life on earth. The soul or life force, not any one body part, is the unifying life principle. The precise moment when the soul, the immaterial life force, separates from the body is of paramount importance, but that precise moment for this immaterial event is unknowable, hence only after the fact can criteria be used to verify that it has occurred.

There is no ground for legal presumption or less secure criteria. The right to live is the most basic right. The State is obligated to protect the person's right to live until death. This obligation is independent of any other interest, assuming innocence of a capital crime.

The public has not been informed that a person declared dead by neurological criteria (DNC), i.e., "brain death" (BD) has a beating heart, circulation, respiration (exchange of oxygen and carbon dioxide) albeit with a ventilator. Urine production, digestion, waste excretion, wound healing, temperature maintenance, and homeostasis of interdependently functioning organs and systems are present. There is the ability to carry and nourish the baby in the womb if pregnant. The BD patient may be called a "corpse," but is not a corpse and is not suitable for burial, cremation, or vital, unpaired organ excision.

BD criteria are based on bedside observation of lack of *functions*, presumed to be "irreversible" or "permanent," neither of which can be tested empirically. They do not require *necrosis* or *destruction*.

The apnea test is part of BD testing. During the apnea test procedure, the life supporting ventilator is disconnected for up to 10 minutes. There are no benefits to the patient, only risks of harm.

1. The statute ought to protect the person from being declared dead when still alive. Full and complete information about the apnea test and any tests used to declare BD must be provided with freedom, at any time, by patients, surrogates, physicians, and other health care providers, to decline or cease the apnea test, exams, and protocols, for the determination and declaration of BD.

2. Treatment options ought to be made available that protect and preserve the life of the patient, even if disability is a potential outcome. Treatments should not be denied based on "quality-of-life" judgments by caregivers even though a patient or surrogate may legitimately refuse them.

3. **Model statute below**, in the negative, sets minimum criteria before death is declared. This minimum fulfills a change in state of the three vital systems to protect living patients from being treated as dead.

"No one shall be declared dead unless respiratory and circulatory systems and the entire brain have been destroyed. Such destruction shall be in accord with universally accepted medical standards."

Respectfully,

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