

To: The Honorable Samuel Thumma and Members of the Determination of Death Act Committee
Uniform Law Commission
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In light that you may be revising the Uniform Determination of Death Act (UDDA), I am sending you this urgent letter to strongly encourage you to *repeal* and *replace* the current UDDA.

The new Act should protect life until true death. A person's death is the cessation of his life on earth. The precise moment when the soul, the immaterial life force, permanently 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 for less secure criteria. The right to live is the most basic right and no one ought to shorten life or hasten death. The state is obligated to protect the individual person's right to live as long as he is able. This obligation is independent of any other interests, assuming innocence of a capital crime.

The public has not been informed that a person declared dead by neurological criteria (DNC), i.e., "brain dead" still has a heart beating on its own, circulation, and respiration (exchange of oxygen and carbon dioxide in the tissues albeit on a ventilator).

Other signs of life continue such as wound healing, which is a complicated diffuse process throughout the body of many factors circulating in the blood and interacting with cells, tissues and organs. There is urine production, temperature maintenance, and homeostasis of interdependently functioning organs and systems. If the patient is a pregnant woman, there is even the ability to carry and nourish the baby in the womb.

All of the above do not occur in a corpse but often occur in a patient after the declaration of "brain death." Doctors may refer to the patient declared dead using DNC as a corpse, but the patient still has signs of life unlike a true corpse. Such a patient is not a corpse or cadaver suitable for burial or cremation.

The dangerous procedure of the apnea test (PAT) is commonly done in the clinical determination of death. The PAT includes disconnection from the life-supporting ventilator for up to 10 minutes. No breaths for 10 minutes or longer!

1. The statute should protect the person from being declared dead when still alive. Full and complete information about the PAT and any tests used to declare DNC must be provided with freedom to decline the PAT and DNC.
2. Treatment options should be made available that protect and preserve the life of the patient, even if severe 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 on the basis of being extraordinary.
3. Wording the statute in the negative would set minimum criteria that must be satisfied before death is declared. This minimum must fulfill a change of state from alive to truly dead. See below:

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

Respectfully,

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Date: 5-7-2023

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