Baptist Health

1

Dead Donor Rule Disregarded: Four Pervasive Derelictions

Brain Death, DCD, NRP, PMI

Professor Thaddeus Mason Pope, JD, PhD, HEC-C
Mitchell Hamline School of Law

2

Faculty Disclosure

Thaddeus Mason Pope, JD, PhD, HEC-C, faculty of this educational activity, has no relevant financial relationships with ineligible companies* to disclose, and has indicated that the presentations or discussions will not include off-label or unapproved product usage.

3

LEARNING OBJECTIVES

Describe four common organ procurement practices that transgress the Dead Donor Rule when death is determined on neurologic or circulatory criteria.

Appraise the ethical seriousness of Dead Donor Rule violations.

Evaluate four leading approaches for addressing Dead Donor Rule violations.

4

ABSTRACT

Multiple high-profile Congressional hearings have spotlighted significant violations of the Dead Donor Rule. This most sacrosanct commandment in bioethics prohibits obtaining non-paired organs from individuals until they are already determined dead. Yet clinicians from coast to coast violate the Dead Donor Rule every single day.

While NRP attracts the most attention, it is not the only problem. Many patients determined dead on neurological criteria (brain death) are not actually dead. Many patients determined dead on circulatory criteria (DCD) are not actually dead. In addition, clinicians perform invasive organ-optimizing interventions before death determination.

Because it undermines public trust, all this noncompliance is unsustainable. We have three options: (1) abandon the Dead Donor Rule, (2) amend transplantation practices to comply, or (3) expand standards for death determination.

5

nothing
to disclose

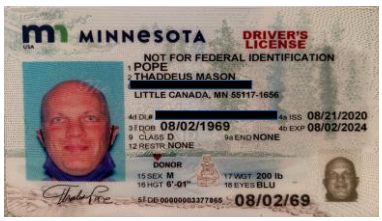
6

I am
pro-donation

7

I am a FPA donor
with **designation**
on my Minnesota
driver's license

8



9

but

10

critical
OT practices

11

12

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14

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16

17

DCD

18

19

DBD

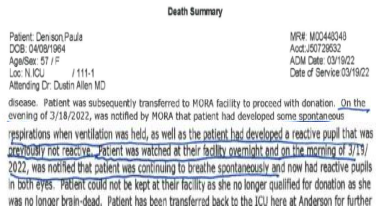
20

21

22

DONATE LIFE MORA

23



Death Summary

Patient: Denison,Paula
DOB: 04/08/1964
Age/Sex: 57 / F
Loc: N ICU / 111-1
Attending Dr: Dustin Allen MD

MR#: M00448348
Acct:J50729532
ADM Date: 03/19/22
Date of Service:03/19/22

disease. Patient was subsequently transferred to MORA facility to proceed with donation. On the evening of 3/18/2022, was notified by MORA that patient had developed some spontaneous respirations when ventilation was held, as well as the patient had developed a reactive pupil that was previously not reactive. Patient was watched at their facility overnight and on the morning of 3/19/2022, was notified that patient was continuing to breathe spontaneously and now had reactive pupils in both eyes. Patient could not be kept at their facility as she no longer qualified for donation as she was no longer brain-dead. Patient has been transferred back to the ICU here at Anderson for further

24

T.J. Hoover & Paula Denison are **not** unique

25

errors in death determination

26

May - July 2025

27

HRSA
Health Resources & Services Administration
Health Systems Bureau/Division of Transplantation
5600 Fishers Lane
Rockville, MD 20857

May 28, 2025

Richard N. Formica, Jr., MD
President, Board of Directors
Organ Procurement and Transplantation Network

28

ONE HUNDRED NINETEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

July 18, 2025

MEMORANDUM

TO: Members of the Subcommittee on Oversight and Investigations
FROM: Committee Majority Staff
RE: Subcommittee on Oversight and Investigations Hearing on July 22, 2025

29

The New York Times https://www.nytimes.com/2025/07/20/us/organ-transplants-donors-alive.html

A Push for More Organ Transplants Is Putting Donors at Risk

People across the United States have endured rushed or premature attempts to remove their organs. Some were gasping, crying or showing other signs of life.

By Brian M. Rosenthal and Julie Tate
July 20, 2025 Updated 5:40 p.m. ET

30

dozens of cases

across the country

31

"**eyes** open and tracking"

"purposeful movement to **pain**"

32

almost

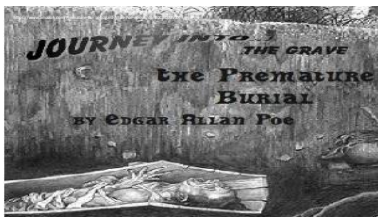
took organs before death

33

Secretary... X.com
@SecKennedy
https://x.com/robertkennedyjr

Hospitals began organ harvesting while patients still showed signs of life. That's horrifying—

34



35

TJ Hoover + >100 cases

36

violating the dead donor rule

37

death → remove organs

38

39

remove organs → death

40

41

but

42

not new

43

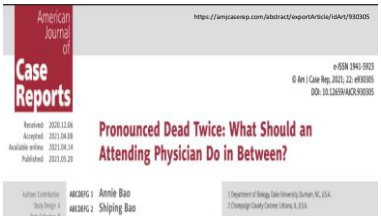
DDR close calls reported for **decades**

44

45

46

47



48

serious errors

49

with **death** determination, we want **100%** accuracy

50

we want **zero** false positives

51

never want to say someone is dead

when they are **not**

52

but

53

accidental DDR violations

54

55

accidental
DDR violations

56

57

deliberate
violations

58

not **clinicians** deviating from rules for OT

59

OT rules **themselves** breach DDR

60

roadmap

61

62

4 parts

63

organ transplantation

64

dead donor rule

65

4 **violations** of the DDR

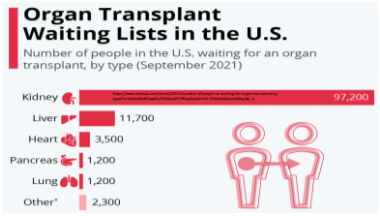
66

what to do **next**

67

organ transplantation

68



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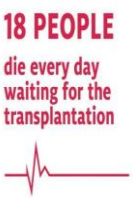


70

living donors
or
deceased donors

71

most organs from **deceased** donors

72

2025

73

7000 living

42,000 deceased

74

14%
transplants from **living** donors

75

86%
transplants from **deceased** donors

76

77

78

deceased donation

79

dead donor rule

80

procure vital single organs
only from donors **already** dead

81

codified in **law**

82

Maryland Health - General § 5-202(b)(2)

83

"pronouncement of death … shall be made **before** any vital organ is removed for transplantation"

84

La. Rev. Stat. 40:1061.25

85

"**dead donor rule** … protects the integrity of … organ donation by providing"

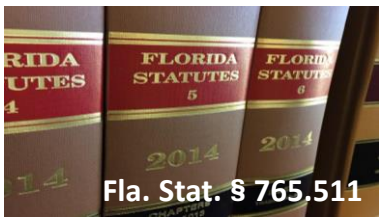
86

"donors must be dead **before** procurement"

87

"procurement … must **not cause** the death"

88



89

"donation … takes effect **after** … death"

90

FLORIDA SUPREME COURT
ACCESSIBLE | FAIR | EFFECTIVE | RESPONSIVE | ACCOUNTABLE

IN RE: T.A.C.P.

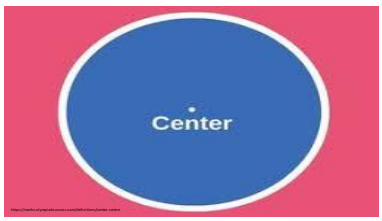
[November 12, 1992]

91

92

even where **not** codified

93



94

World Health Organization

WHO GUIDING PRINCIPLES
ON HUMAN CELL, TISSUE AND ORGAN TRANSPLANTATION[1]

95

that's the **core** DDR

96

first
determine death

97

then
take organs

98

but

99

3 layers to DDR

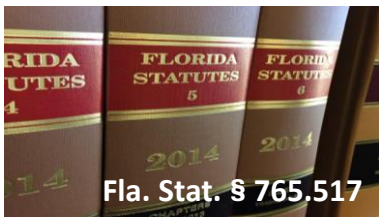
100

2d layer

101

separate death determination clinicians - from transplant clinicians

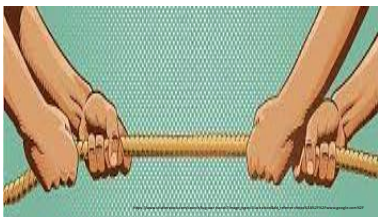
102



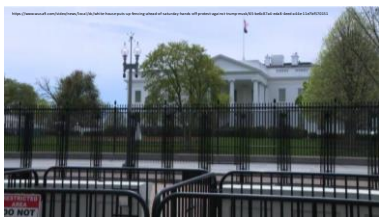
103

"death shall be determined by a physician who … **may not** participate in … transplanting"

104



105



106

also built **2d fence** for DDR

107

avoid COI that might cause DDR violations

108

so…

109

not only

110

follow DDR

111

but also

112

avoid even
appearance
of impropriety

113

3d layer

114

burden
of proof

115

DDR

116

~~**P**DDR~~

117

presumed alive until rebutted

118

unsure if dead → **not** dead

119

recap

120

3 layers to DDR

121

1. death **before** OT
2. OT MD cannot determine death
3. do not determine death until **sure**

122

that's the **definition** of DDR

123

DDR matters

124

125

4 recent examples

126

example 1

127

128

Execution by organ procurement: Breaching the dead donor rule in China

American Journal of Transplantation

Matthew P. Robertson[1] | Jacob Lavee[2]

https://doi.org/10.1111/ajt.16969

129

UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES

SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

130

Tom Lantos
Human Rights Commission
United States Congress

Forced Organ Harvesting in China: Examining the Evidence

Date: Thursday, May 12, 2022 - 10:30am

131

132

example 2

133

134

A brief history of Israel's theft and trafficking of Palestinian organs

There are over three decades of evidence that Israeli doctors harvest Palestinian organs in direct violation of international law. These stolen body parts were not just used for transplantation and research but for sale and profit.

BY HEALTHCARE WORKERS FOR PALESTINE · FEBRUARY 22, 2025 · 24

135

example 3

136

137

138

CORREIO BRAZILIENSE

JUSTICE

Doctor sentenced to 21 years for death after removing boy's organs

139

Justiça analisa apelações de médicos envolvidos na morte do menino Paulo Pavesi; órgãos foram retirados ilegalmente

De todos os envolvidos, apenas um permanece preso. Paulo Pavesi foi morto em 2000, aos 10 anos, e teve os órgãos retirados enquanto ainda estava vivo; caso aconteceu em Poços de Caldas.

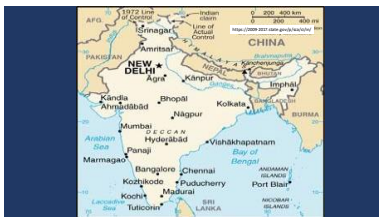
Por Alex Araújo, Jô Andrade, g1 Minas — Belo Horizonte
16/04/2024 11h37 · Atualizado há 2 semanas

5 more criminal prosecutions

140

example 4

141



142

BarandBench

Kerala court issues summons to Lakeshore Hospital, 8 doctors on allegations of illegal organ transplantation

143

144

145

1968

146

147

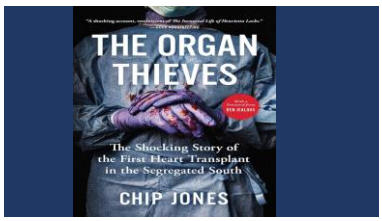
148

Tucker v. Lower

No. 2831 (Richmond, Va., L. & Eq. Ct., May 23, 1972).

149

150



151

152

motivator

BD laws

1970 →

153

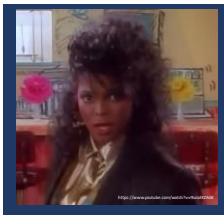
so could be **sure** Pt dead before OT

154

Tucker v. Lower

1968

155



how has DDR been enforced **late-ly**

156

DDR violations **continue** to be prosecuted

157

2 cases

158

case **1**

159

160

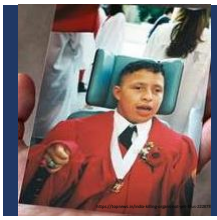
transplant surgeon

Hootan Roozrokh

161

DCD

162



Ruben Navarro

163

patient did **not** die after WLST

164

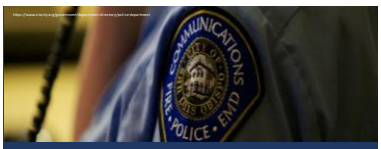
SO…

165

166

220mg morphine
+
84mg Atavan

167



nurse reported to **police**

168

charged & prosecuted

169

170

"The defendant a transplant surgeon administered excessive amounts of narcotics and tranquilizers … to **hasten his death,** so that he could **harvest his organs"**

171

jury acquitted

172

but

173

2-month trial

174

3 years of his life

175

case **2**

176

177

DBD

178

DONATE LIFE CORE
Center for Organ Recovery & Education
A Pledge for Life
https://www.core.org/

179

180

181

not BD

182

hastened death

or

started OT before BD

183

$1,200,000

184

why review these court cases?

185

186

DDR has **teeth**

187

188

recap

189

never want to say someone is dead

when they are **not**

190

never take vital organs until **after** individual determined dead

191

when are donors dead

192

2 ways to be dead

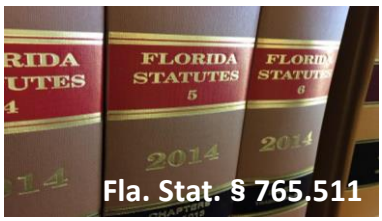
193

UDDA

194

law on death in all U.S. jurisdictions

195



196

2 ways

to determine death

197

"irreversible cessation of **circulatory & respiratory** functions"

198

or

199

"irreversible cessation of all functions of the entire **brain**"

200

circulatory criteria
or
neurologic criteria

201

to date, **91%** deceased donation is after **BD**

202

just **9%** after CD

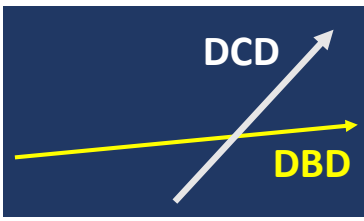
203

but

204

2010 - 2025

205



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OPTN Organ Procurement & Transplantation Network
U.S. Department of Health & Human Services
HRSA
Health Resources & Services Administration

207

	2025	2024	2023	2022	2021	2020	2019	2018
All DCD + non-DCD	49,065	48,150	46,634	42,889	41,356	39,036	39,719	36,530
Brain Death Donor	25,692	28,144	29,721	28,729	27,770	27,462	27,306	25,721
DCD Donor	16,132	12,975	9,958	7,692	7,044	5,847	5,016	3,960

https://hrsa.unos.org/data/view-data-reports/national-data/

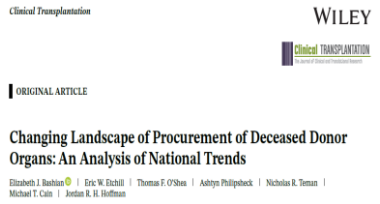
208

DCD

209

>310% increase since 2018

210


Clinical Transplantation

WILEY

Clinical TRANSPLANTATION

ORIGINAL ARTICLE

Changing Landscape of Procurement of Deceased Donor Organs: An Analysis of National Trends

Elizabeth J. Bashian | Eric W. Eichill | Thomas F. O'Shea | Ashtyn Philipsheck | Nicholas R. Teman | Michael T. Cain | Jordan R. H. Hoffman

211

DBD

212

dropped since 2018

213

DCD **>** 1/3

DBD < 2/3

214

DCD 50%

DBD 50%

215

DDR violations

216

4 violations

217

DBD

218

DCD

219

NRP

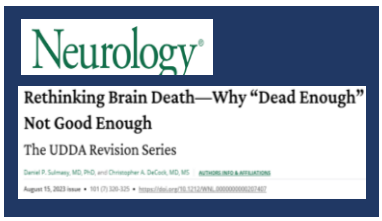
220

PMI

221

measure OT against **UDDA**

222



223

UDDA ≠ human death

224

NRP
PMI
DBD
DCD
→ **UDDA**

225

DBD

226

2 problems

227

problem 1

228

229

law | medicine

230

clinicians do **not** assess what **UDDA** requires

231

UDDA

232

law on death in all U.S. jurisdictions

233

irreversible cessation
all functions
entire brain

234

but

235

brain dead
people
do stuff

236

237

Adriana
Smith

238

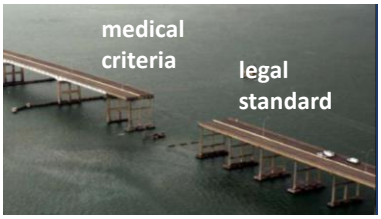
239

clinicians assess only
some functions
part of brain

240

UDDA requires
all functions
entire brain

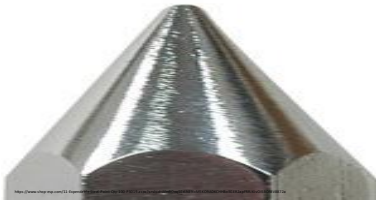
241



242

medically dead
≠
legally dead

243



244

AMERICAN ACADEMY OF NEUROLOGY

245

Pediatric and Adult Brain Death/Death by Neurologic Criteria Consensus Guideline

Report of the AAN Guidelines Subcommittee, AAP, CNS, and SCCM

David M. Greer, MD, MA,* Matthew P. Kirschen, MD, PhD,* Ariane Lewis, MD,* Gary S. Gronseth, MD, Alexander Rae-Grant, MD, Stephen Ashwal, MD, Maya A. Babu, MD, MBA, David F. Bauer, MD, MPH, Lori Billinghurst, MD, MSc, Amanda Corey, MD, Sonia Partap, MD, MS, Michael A. Rubin, MD, MA, Lori Shutter, MD, Courtney Takahashi, MD, Robert C. Tasker, MBBS, MD, Panayiotis Nicolaou Varelas, MD, PhD, Eelco Wijdicks, MD, PhD, Amy Bennett, JD, Scott R. Wessels, MPS, ELS, and John J. Halperin, MD

Correspondence
American Academy of Neurology
guidelines@aan.com

Neurology® 2023;101:1112-1132. doi:10.1212/WNL.0000000000207740

246

patient can **satisfy** BD guidelines

247

dead

248

yet…

249

"neuro-endocrine function **may be present**"

250

AMERICAN ACADEMY OF NEUROLOGY

251

SPECIAL ARTICLE

Brain death, the determination of brain death, and member guidance for brain death accommodation requests

AAN position statement

James A. Russell, DO, MS, Leon G. Epstein, MD, David M. Greer, MD, MA, Matthew Kirschen, MD, PhD, Michael A. Rubin, MD, MA, and Ariane Lewis, MD, on behalf of the Brain Death Working Group

Correspondence
J.A. Russell
james.a.russell@ahey.org

Neurology® 2019;92:1-3. doi:10.1212/WNL.0000000000006750

252

may determine BD **despite** function hypothalamus

253

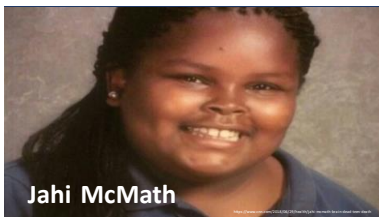
"**not inconsistent** with the whole brain standard of death"

254

but

255

256



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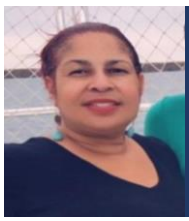


258

WRONG

259

UDDA

requires

260

irreversible cessation of

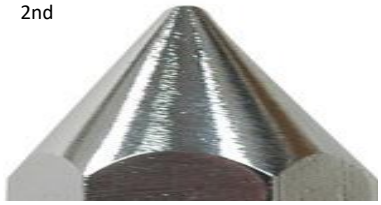
261

all functions
of the
entire brain

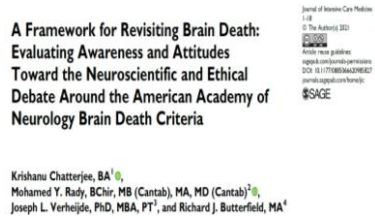
262

263

2nd



264


A Framework for Revisiting Brain Death: Evaluating Awareness and Attitudes Toward the Neuroscientific and Ethical Debate Around the American Academy of Neurology Brain Death Criteria

Krishanu Chatterjee, BA[1], Mohamed Y. Rady, BChir, MB (Cantab), MA, MD (Cantab)[2], Joseph L. Verheijde, PhD, MBA, PT[3], and Richard J. Butterfield, MA[4]

SAGE

265

200 clinicians
Mayo Clinic

266

if you:
use AAN protocol
get positive result

267

does that establish loss of "**all** functions of the **entire** brain"?

268

no

269

270

UDDA

requires

271

1. cessation
2. all functions
3. entire brain

272

AAN guidelines

do **not**

273

that's

problem **1**

274

mismatch

legal criteria to

medical standards

275

problem 2

276

even if guidelines

were legally valid

277

widespread

noncompliance

278

UDDA

279

when you make determination of irreversible cessation

280

"accordance with **accepted medical standards**"

281

but

282

variability

283

Variability of Brain Death Policies in the United States

David M. Greer, MD, MA; Hilary H. Wang, BA; Jennifer D. Robinson, APRN; Panayiotis N. Varelas, MD, PhD;

JAMA Neurology 2016 Feb;73(2):213-8
doi: 10.1001/jamaneurol.2015.3943

284

Improving uniformity in brain death determination policies over time

Neurology 2017 Feb 7;88(6):562-568
doi:10.1212/WNL.0000000000003597

285

Variability of brain death determination guidelines in leading US neurologic institutions

Neurology 2008 Jan 22;70(4):284-9
doi: 10.1212/01.wnl.0000296278.59487.c2

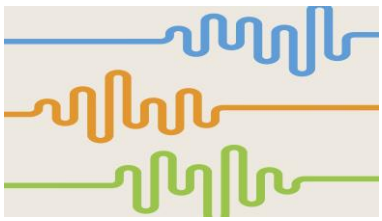
286

Variability in reported physician practices for brain death determination

Sherri A. Braksick, Christopher P. Robinson, Gary S. Gronseth, Sara Hocker, Eelco F.M. Wijdicks,

Neurology 2019 Feb 26;92(9):e888-e894
doi: 10.1212/WNL.0000000000007009

287



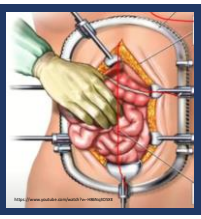
288

289

Nevada

290

291



brain injury during exploratory laparotomy

292

met AAN criteria for brain death

293

294

295

dad loses

296

trial court

AAN criteria met

→ Aden is dead

297

298

dad **wins**

299

300

irrelevant that Aden meets AAN criteria

301

not the right criteria to use for BD/DNC

302

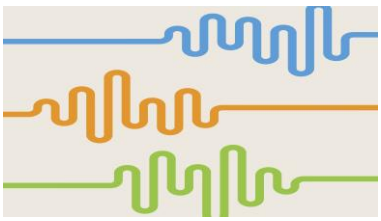
303

not accepted medical standards

304

if hospitals don't follow them, they are **not** "accepted"

305



306

state 1
≠
state 2

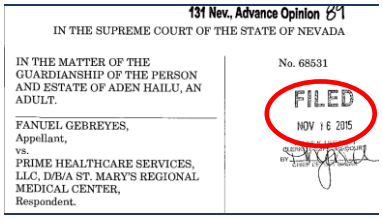
307

hospital 1
≠
hospital 2

308

MD 1
≠
MD 2

309


131 Nev., Advance Opinion 81
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE GUARDIANSHIP OF THE PERSON AND ESTATE OF ADEN HAILU, AN ADULT.

FANUEL GEBREYES,
Appellant,
vs.
PRIME HEALTHCARE SERVICES, LLC, D/B/A ST. MARY'S REGIONAL MEDICAL CENTER,
Respondent.

No. 68531

FILED
NOV 16 2015

310

311

312

313

amended
NUDDA
A.B. 424 (2017)

314

~~accepted~~
~~medical~~
~~standards~~

315

determination of BD "must be made in accordance **with** …"

316

AAN
AAP

317

use **these** standards when determine BD

318

Nevada

319

NEW YORK STATE | Department of Health

320

NJ Health
New Jersey Department of Health

321

322

only **3** states

323

AMS in **other** 53 jurisdictions

324

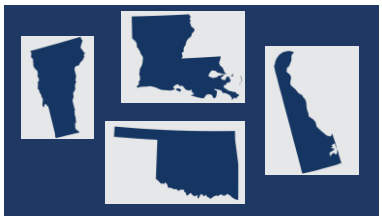
?

325

Advocacy for State Acknowledgment of the 2023 Brain Death/Death by Neurologic Criteria Guidelines as the Accepted Medical Standards

Neurology

326



327

that's problem **2**

328

failing

determine BD using "accepted standards"

329

that's

DBD

330

let's move to a **second** DDR violation

331

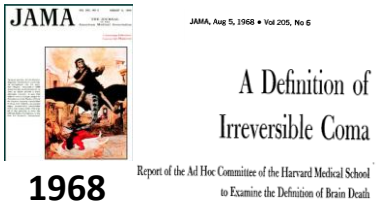
DCD

332

1960s

OT was DCD

333



1968

334

1970 →

335

50 years
almost all
OT was BD

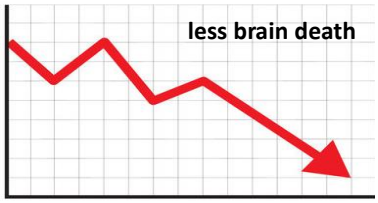
336

BD – can keep organs perfused **whole** time

337

but

338



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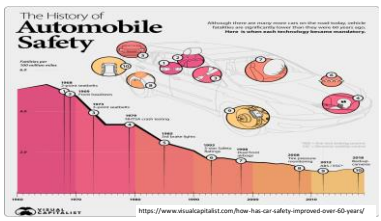


340

1990s

341

DCD

342

343

catastrophically critically ill (but **alive** patient)

344

family decides to **stop** LST

345

likely that heart will **stop**

346

347

even when heart stops

348

not dead **yet**

349

UDDA

350

"**irreversible** cessation of circulatory & respiratory functions"

351

not just cessation

352

irreversible cessation

353

2 problems

354

problem **1**

355

cessation is **not irreversible** as UDDA requires

356

we **can** reverse cessation of circulatory function

357

358

we **won't** (because Pt does not want that)

359

360

but

361

we **could**

362

response

363

we interpret "irreversible" as "**permanent**"

364

not what UDDA says

365

problem **2**

366

even if UDDA required only "permanent" cessation

367

is even **that** satisfied?

368

after heart stops

369

standoff
observation

370

ensure heart does not restart **spontaneously**

371

how long?

372

373

after 5 min

374

if **no** circulatory function

375

→ dead

376

377

WLST
asystole
stand off
declaration

378

why
5 min

379

hearts **have** restarted at 4:20

380

DDR
problem

381

some clinicians wait only **2 min**

382

ASTS American Society of Transplant Surgeons
Sept. 2025
ASTS Position Statement on a 5-minute observation period
"**heterogeneous** waiting times ranging from 2 to 5"

383

384

but

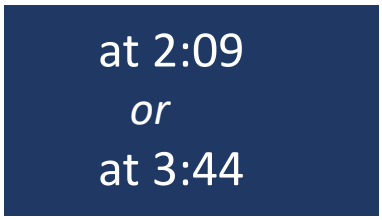
385

unclear that circulatory cessation was **irreversible**

386

heart **might** have restarted (spontaneously)

387



388

389

390

391

392

393

394

395

396

DDR

397

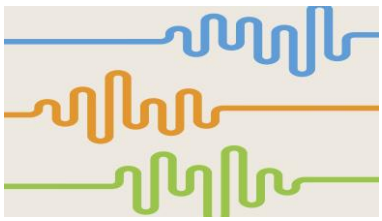
398

DDR
2d problem

399

even if guidelines **were** legally valid

400



401

AJS The American Journal of Surgery

Anji E Wall et al., **Variation** in donation after circulatory death hospital policies in a single donor service area, Am J Surg . 2022;224(1 Pt B):595-601.

402

ADULT: HEART TRANSPLANTATION: BRIEF RESEARCH REPORT

Variation among organ procurement organizations in experience and practice of heart donation after circulatory death

Austin Ayer, BS,[1] Benjamin S. Bryner, MD, MS,[2] Chetan B. Patel, MD,[3] Jacob N. Schroder, MD,[3]

"significant **variability** … uniform standards are needed"

403

404

The New York Times https://www.nytimes.com/2025/07/20/us/organ-transplants-donors-alive.html

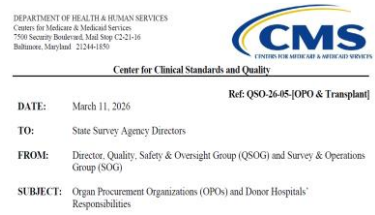
A Push for More Organ Transplants Is Putting Donors at Risk

People across the United States have endured rushed or premature attempts to remove their organs. Some were gasping, crying or showing other signs of life.

By Brian M. Rosenthal and Julie Tate
July 20, 2025 Updated 5:40 p.m. ET

405

406


DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-16
Baltimore, Maryland 21244-1850

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Center for Clinical Standards and Quality

Ref: QSO-26-05-[OPO & Transplant]

DATE: March 11, 2026

TO: State Survey Agency Directors

FROM: Director, Quality, Safety & Oversight Group (QSOG) and Survey & Operations Group (SOG)

SUBJECT: Organ Procurement Organizations (OPOs) and Donor Hospitals' Responsibilities

407

let's move to a specific **type** of DCD

408

NRP

409

normothermic **r**egional **p**erfusion

410

TA-NRP

411

DCD requires absence of circulation

412

but

413

bad for organs, especially heart

414

minimize
warm
ischemia

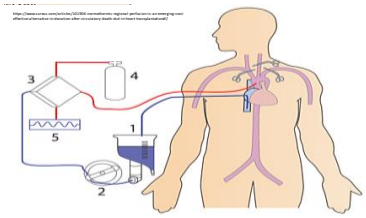
415

so …

416

restart circulation
in the donor

417



418

improves
organ quality

419

problem

420

said dead **because**
irreversible cessation
of circulatory function

421

reversed it

422

if you reverse something, that shows it is **not** irreversible

423

basis for death determination no longer true

424

response

425

before restart → cut or clamp vessels to brain

426

even if no longer **circulatory** dead

(because we restarted circulation)

427

w/o perfusion to brain, patient is now **brain** dead

428

429

ACP American College of Physicians® Leading Internal Medicine, Improving Lives

Ethics, Determination of Death, and Organ Transplantation in Normothermic Regional Perfusion (NRP) with Controlled Donation after Circulatory Determination of Death (cDCD):

430

"ethical & legal propriety … has **not** been met"

431

OPTN Organ Procurement & Transplantation Network

U.S. Department of Health & Human Services

HRSA Health Resources & Services Administration

432

"**unclear** whether NRP violates DDR"

433

The Irreversible Cannot Be Reversed: Normothermic Regional Perfusion Is Euthanasia

434

NRP

435

really only regional?

436

only a **hypothesis**

do not **know** no perfusion to brain

437

American Journal of Transplantation

Editorial

Normothermic regional perfusion in donation after circulatory determination of death—Confirming the absence of brain reperfusion

Commentary on [https://doi.org/10.1016/j.ajt.2025.03.029]

Sam D. Shemie, Christopher J.E. Watson

438

do not **know** donor is dead

439

may be

consciousness

pain perception

440

ASTS American Society of Transplant Surgeons

Sept. 2025

ASTS Position Statement on vascular ligation and/or venting of the aortic arch vessels during Thoracoabdominal Normothermic Regional Perfusion (TA-NRP)

"evidence … absence of cerebral blood flow … **emerging** "

441

HRSA
Health Resources & Services Administration

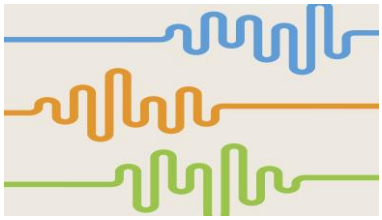
Health Systems Bureau
5600 Fishers Lane
Rockville, MD 20857

September 27, 2024

"**circulation** to the brain … definitely … **restored**"

442

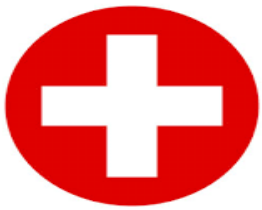
443



444

some surgeons **fail** to stop blood flow

445



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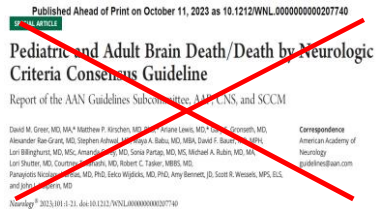

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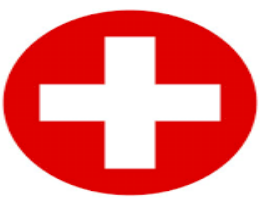

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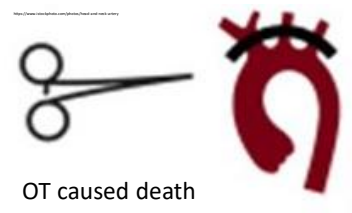


OT caused death

449

DDR

450

death → OT

451

452

OT → death

453

recap

454

DBD
DCD
NRP

455

1 more DDR violation

456

PMI

457

DCD entails some ischemic damage

458

SO …

459

pre-mortem
non-therapeutic
interventions

460

MV CPR
vasopressors
hormonal therapy

461

heparin
femoral cannulation

462

not for patient
only for **organ**

463

organ **protection** therapy
donor **optimization** procedures

464

donor management

465

DDR

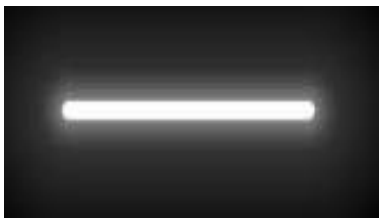
466

alive	dead
focus on patient	focus on organ

467

alive	dead
treatment team	transplant team

468



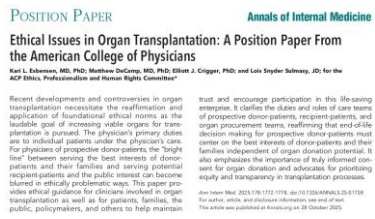
469

PMI

470

alive	dead
focus on patient	focus on organ

471



POSITION PAPER

Annals of Internal Medicine

Ethical Issues in Organ Transplantation: A Position Paper From the American College of Physicians

Kari L. Esbenshen, MD, PhD; Matthew DeCamp, MD, PhD; Elliott J. Crigger, PhD; and Lois Snyder Sulmasy, JD; for the ACP Ethics, Professionalism and Human Rights Committee*

Recent developments and controversies in organ transplantation necessitate the reaffirmation and application of foundational ethical norms as the laudable goal of increasing viable organs for transplantation is pursued. The physician's primary duties are to individual patients under the physician's care. For physicians of prospective donor-patients, the "bright line" between serving the best interests of donor-patients and their families and serving potential recipient-patients and the public interest can become blurred in ethically problematic ways. This paper provides ethical guidance for clinicians involved in organ transplantation as well as for patients, families, the public, policymakers, and others to help maintain trust and encourage participation in this life-saving enterprise. It clarifies the duties and roles of care teams of prospective donor-patients, recipient-patients, and organ procurement teams, reaffirming that end-of-life decision making for prospective donor-patients must center on the best interests of donor-patients and their families independent of organ donation potential. It also emphasizes the importance of truly informed consent for organ donation and advocates for prioritizing equity and transparency in transplantation processes.

Ann Intern Med. 2025;178:1772-1778. doi:10.7326/ANNALS-25-01738

For author, article, and disclosure information, see end of text.

This article was published at Annals.org on 28 October 2025.

472

473

donor	patient

474

clinicians have very **COI** - DDR aims to prevent

475

recap

476

DBD	NRP
DCD	PMI

477

we **breach** the DDR

478

EVERY **SINGLE** DAY

479

not fault of OPOs

480

not fault of intensivists

481

lack regulation & guidance

482

not that clinicians violating OT rules

483

OT rules **themselves** need reform

484

what next

485

4 paths

486

487

488

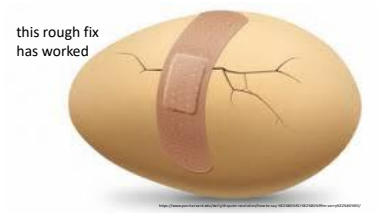
continue
OT **as is**

489

490

491

492



493

but

494

495

Mass Exodus From Organ Donor Registries Following Media Coverage

Published Aug 07, 2025 at 6:00 AM EDT

Newsweek

496

AOPO Alarmed by Decline in U.S. Organ Donations

Jan 14, 2026 | Advocates, AOPO, Donation, General Health, Healthcare Industry, News, OPO, Press Release, Transplant

AOPO

ASSOCIATION OF ORGAN PROCUREMENT ORGANIZATIONS

Saving and Improving lives through organ, eye, and tissue donation

497

kidney TRANSPLANT COLLABORATIVE

LOSING TRANSPLANTS FOR ALL THE WRONG REASONS: A STATISTICAL ANALYSIS OF THE REDUCTION IN KIDNEY TRANSPLANTS IN RESPONSE TO REPORTS OF OPO FAILURES

January 2026

"heightened focus on … cases involving donors who were **wrongfully** suspected to be deceased"

498

HHS.gov @HHSGov X.com

https://x.com/droz

.@DrOzCMS: "If we lose trust in the organ transplantation system of this country, tens of thousands of people are going to die yearly

499

so…

500

501

502

revise OT to comply

503

3 steps

504

BD **only** when no neuroendocrine function

505

DCD **>** 5 min

506

no NRP until evidence

507

but

508

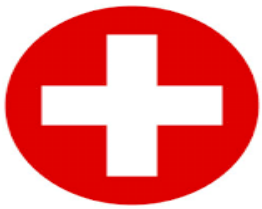
509

UDDA is **strict** & demanding

510

we would **lose** many organs

511



512

513

514

change UDDA

515

instead of aligning **guidelines** to law

516

align **law** to guidelines

517

518

we tried

519

Uniform Law Commission
Better Laws. Stronger States.

520

UDDA → **R**UDDA

521

match
legal criteria to medical standards

522

but

523

524

so …

525

~~RUDDA~~

526

527

drop DDR

528

~~DDR~~

529

let people **decide** when they are "dead enough" to donate organs

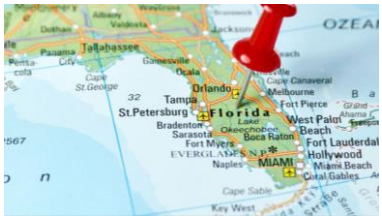
530

5 reasons

531

1 already tried

532



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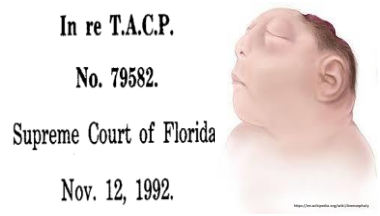

534

2 growing calls

535

536

3 foremost bioethicists

537

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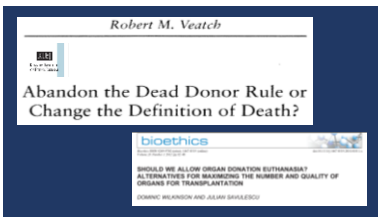

539

4 public opinion

540

Abandoning the dead donor rule? A national survey of public views on death and organ donation

Michael Nair-Collins, Sydney R Green, Angelina R Sutin

541

70% support procuring organs even if **not** dead

542

5 honest transparent

543

no DDR
≠
expand OT

544

matching rules to practice

545

546

in sum

547

conflict
DDR ***v*** OT

548

4 paths

549

ignore mismatch
change guidelines
change law
drop DDR

550

conclusion

551

increase
number & quality
of organs

552

but

553

zero sum
situation

554

more
certain
death
→
fewer
organs

555

more
organs
→
less
certain
death

556

557

utility
DDR
compliance

558

how much **uncertainty of death** can we tolerate in OT?

559

560

Thaddeus Mason Pope, JD, PhD, HEC-C
Mitchell Hamline School of Law
875 Summit Avenue
Saint Paul, Minnesota 55105
T 651-695-7661
C 310-270-3618
E Thaddeus.Pope@mitchellhamline.edu
W www.thaddeuspope.com
B medicalfutility.blogspot.com

561