

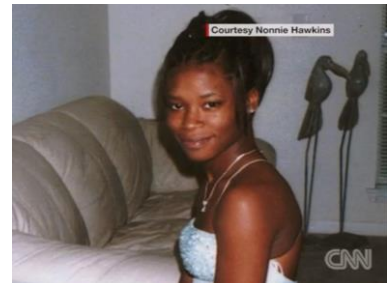
**Brain Death  
Is Broken**  
**Status Shift and  
Implications**

Thaddeus Mason Pope, JD, PhD  
 Healthcare Ethics Consortium  
 Atlanta, GA • March 21, 2019

1



2



3

November  
2003

4



5



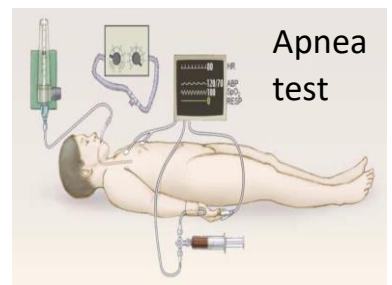
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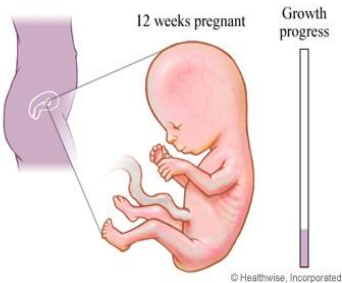
7



8



9



10

**(9) IN CASE OF PREGNANCY**  
 [PART TWO will be effective even if this section is left blank]

I understand that under Georgia law PART TWO generally will have no force and effect if I am pregnant unless the fetus is not viable and I indicate by initialing below that I want PART TWO to be carried out.

Ga. Code Ann. § 31-32-9

11



12



13

Birth 03/16/04

W/D 03/18/04

14

Without  
 consent

15



16

“tortious  
 termination  
 of life support”

17



18



19



20



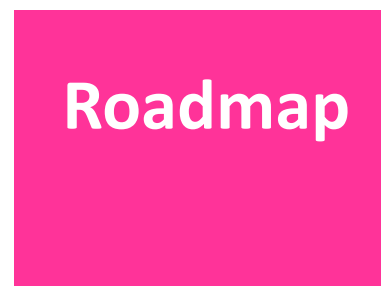
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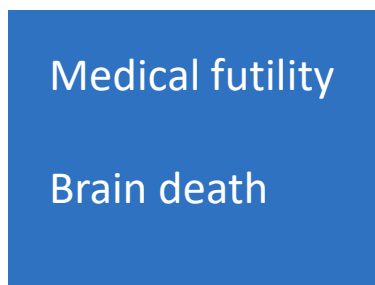
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26



27



28



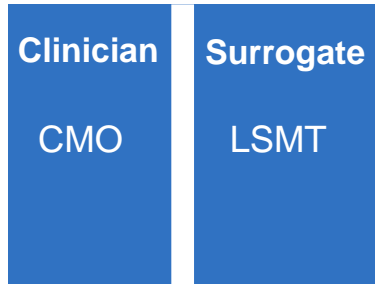
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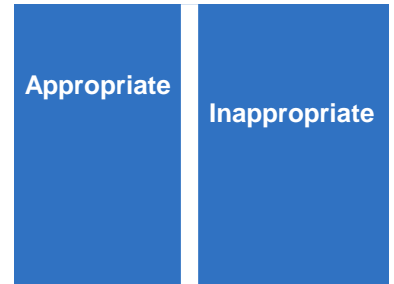
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31



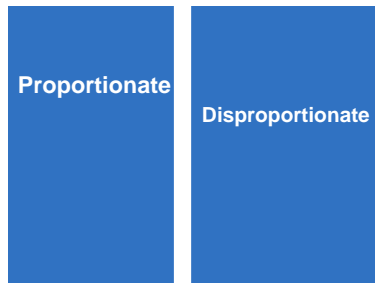
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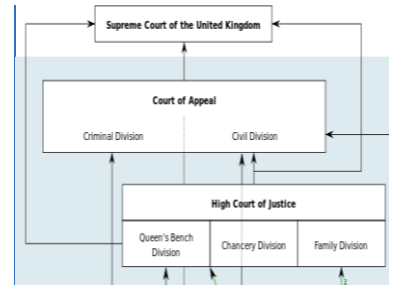
36



37



38



39



40



41



42



RESOLUTION

Resolution: 110A.18

SUBJECT: 2015 ATS Official Policy Statement: Responding to Requests for Potentially Inappropriate Treatments

SUBMITTED BY: Medical Association of Atlanta

REFERRED TO: Reference Committee A

43

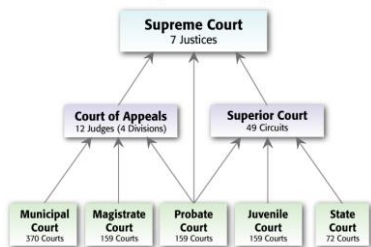


44



45

### The Georgia Court System



46

Options in **intractable** conflicts

47



48

Clinician may proceed **without** consent

Clinician may **not** proceed without consent

49

No permission

No prohibition

50

3

51

Green lights  
Red lights  
Why more red

52



53



54

Stop LSMT  
**without**  
consent

55

**any reason**  
if hospital review  
committee agrees

56



57

2018

58



59

20 years

60

“**conflict remains**  
**unresolved**, . . . make a  
reasonable effort to  
**transfer** the patient. . .  
not less than 14 days”

61

Day 15 ?

62



63

“end of the 14-day  
period . . . conflict  
**remains unresolved** . . .  
unable to identify . . .  
facility willing . . .”

64

“**may cease**  
to provide  
the treatment”

65

VA = TX

66

2018

67



68

30 years

69

“health care provider  
. . . **may decline to  
comply** . . . health  
care decision that . . .”

70

“requires **medically  
ineffective** health care”  
“health care **contrary to  
generally accepted health  
care standards**”

71

PLUS

72

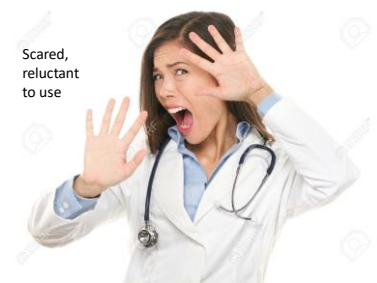


“**not subject** to civil or criminal liability or to discipline for unprofessional conduct”

73

**BUT**

74



75



76

Elizabeth Alexander  
70 years old  
end-stage pancreatic cancer

77

“Clearly an individual who should not undergo aggressive resuscitation”  
  
“She is frail, debilitated, and . . . metastasis . . . extensive.”

78

Advance directive  
POLST  
Agent

79

“**all measures** to prolong life”

80

Appropriate care committee

81

DNR

82

Elizabeth dies

83

Family sues & loses

84

9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
 10 CENTRAL DIVISION  
 11  
 12 ESTATE OF ELIZABETH ALEXANDER,  
 13 and CLINTON ALEXANDER, HEIR,  
 14 Plaintiffs,  
 15 v.  
 16 SCRIPPS MEMORIAL HOSPITAL LA  
 17 JOLLA, a California corporation, DONALD  
 18 RITT, an individual, GUSTAVO LEGGO, an  
 19 individual, CHRISTOPHER WESNER, an  
 20 individual, PREETI MEHTA, an individual,  
 21 MARIE SHEEL, an individual, SHAWN  
 22 EVANS, an individual, MARIE SHEEL, an  
 23 individual, AYANA BOYKING, an  
 individual, ERNEST POND, an individual,  
 CHARLES FITZGERALD, an individual, KARIN  
 ASHIGHT, an individual, and DOES 1 through  
 15, inclusive,  
 Defendants.

CASE NO. 37-2014-00016257-CU-MM-CTL  
 NOTICE OF MOTION AND MOTION FOR  
 ALTERNATIVE, SUMMARY  
 ADJUDICATION BY SCRIPPS  
 DEFENDANTS  
 IMAGED FILE  
 DATE: June 3, 2016  
 TIME: 11 a.m.  
 DEPT.: C-70  
 JUDGE: Hon. Randa Trapp  
 CASE FILED: May 20, 2014  
 TRIAL DATE: September 9, 2016

85

“immune from liability under section 4740”

86

COURT OF APPEAL, FOURTH APPELLATE DISTRICT  
 DIVISION ONE  
 STATE OF CALIFORNIA

CHRISTOPHER ALEXANDER et al.,  
 Plaintiffs and Appellants,  
 v.  
 SCRIPPS MEMORIAL HOSPITAL LA  
 JOLLA et al.,  
 Defendants and Respondents.

D071001  
 (Super. Ct. No. 37-2014-00016257-CU-MM-CTL)  
 April 16, 2018

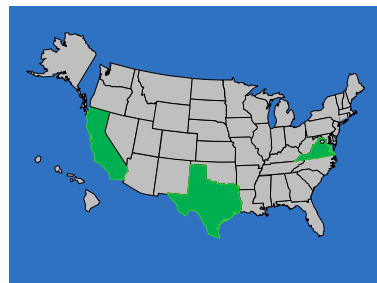
87



88

CA = TX

89



90

2019

91



92

“immune from . . . liability for refusing to provide . . . treatment requested”

93

Procedures weaker than TX, VA, CA

94

Obtain another medical opinion  
or  
Obtain an opinion from a committee  
or  
Transfer the patient

95

That’s enough green lights

96



97

Consent always

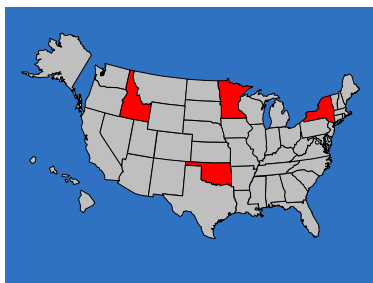
98



99



100



101



102

Nondiscrimination  
in Treatment Act  
November 2013

103

“health care provider  
**shall not deny** . . .  
life-preserving health  
care . . . directed by the  
patient or [surrogate]”

104

Medical Treatment  
Laws Information Act  
November 2014

105

Oklahoma Health Care Providers’  
Responsibilities and Rights Under  
Certain Medical Treatment Laws



106



107

“If surrogate directs  
[LST] . . . provider that  
does not wish to provide  
. . . **shall nonetheless  
comply** . . . .”

108



Discrimination  
in Denial of  
Life Preserving  
Treatment Act

109

“Health care . .  
. **may not be . . .**  
**denied** if . . .  
directed by . . .  
surrogate”

110



111

2018

112



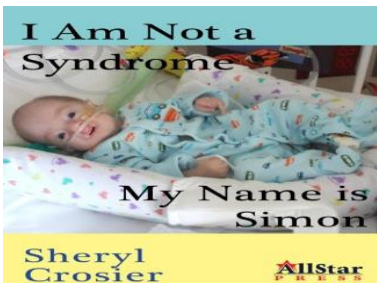
113

Simon's  
Law

114



115



116

DNR without  
parents'  
consent **or**  
knowledge

117

Simon's Law  
addresses  
this

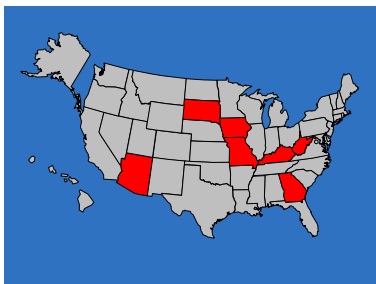
118

"No do-not-resuscitate  
order or similar  
physician's order shall  
be instituted . . . if . . .  
refusal of consent"

119

2019

120



121



122



123



124

**Not even a court**  
may order  
withdrawal of LSMT  
over parental  
objections

125



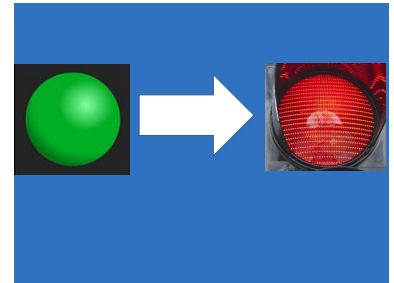
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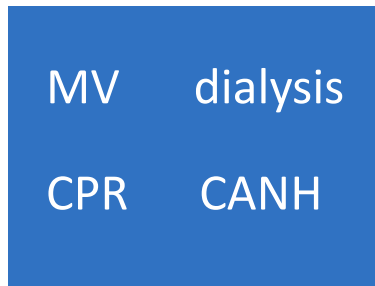
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129



130



131



132



133



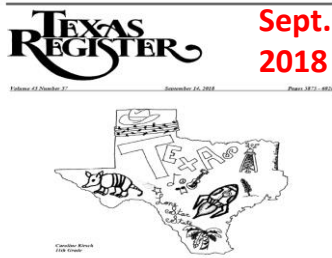
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135



136



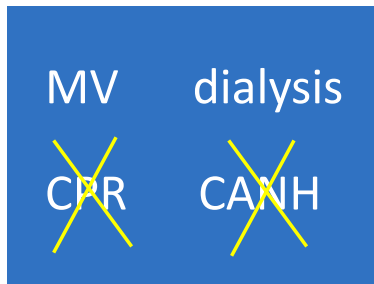
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138



139



140



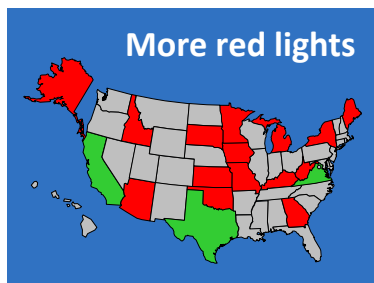
141

Mar. 19  
2019



Court of Appeals  
First District  
301 Fannin Street  
Houston, Texas 77002-2066

142



143



144



## AMERICAN THORACIC SOCIETY DOCUMENTS

### An Official ATS/AACN/ACCP/ESICM/SCCM Policy Statement: Responding to Requests for Potentially Inappropriate Treatments in Intensive Care Units

Gabriel T. Sossiel, Thaddeus M. Pope, Gordon D. Rubenfeld, Bernard Lo, Robert D. Truog, Cynthia H. Rahtoun, J. Randall Curtis, Dee W. Ford, Molly Osborne, Cheryl Misak, David H. Au, Elic Anzuway, Baruch Brody, Brenda G. Fahy, Jesse B. Hall, Jozsef Kesecioğlu, Alexander A. Kon, Kathleen O. Lindell, and Douglas B. White, on behalf of The American Thoracic Society ad hoc Committee on Futile and Potentially Inappropriate Care

The Official Policy Statement of the American Thoracic Society (ATS) was approved by the ATS, January 2015; the American Association for Critical Care Nurses (AACN), December 2014; the American College of Chest Physicians (ACCP), October 2014; the European Society for Intensive Care Medicine (ESICM), September 2014; and the Society of Critical Care Medicine (SCCM), December 2014

145

Disputed  
treatment  
**might** keep  
patient alive.

146

At issue

147

Is that chance  
or outcome  
**worthwhile**

148

**Not** a  
medical  
judgment

149

**Value**  
judgment

150

That question  
is for patients  
& families

151



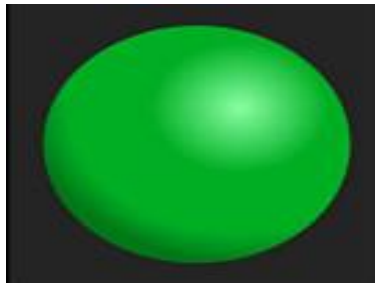
152

Withdrawal  
w/o consent  
okay

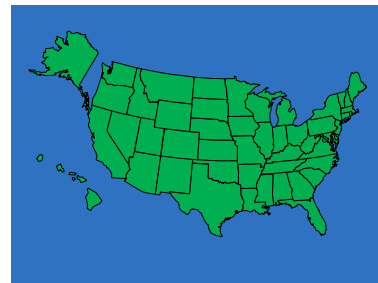
153

Already  
dead

154



155



156

2011

157

Still true  
today?

158

Medical futility  
↓  
Brain death

159

1968

160



161



162



163



164



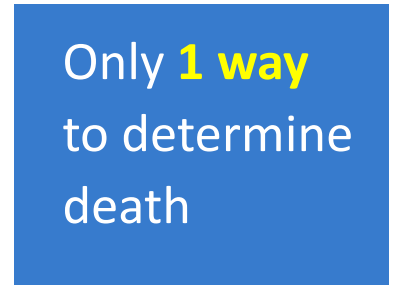
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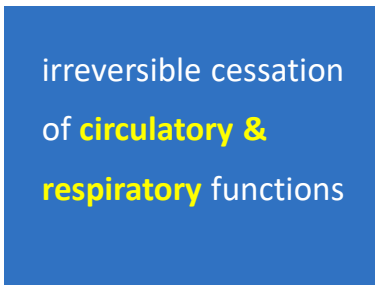
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167



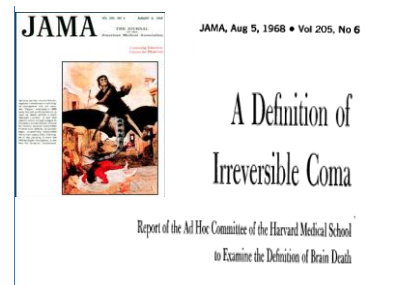
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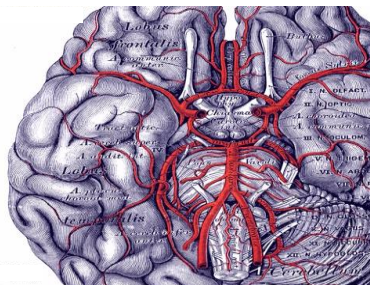
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170



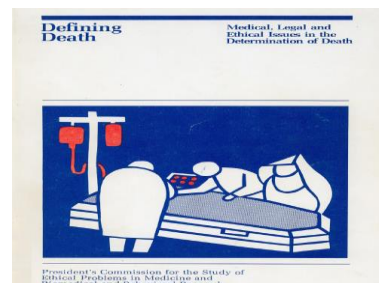
171



172

# 1981

173



174

# UDDA

175

An individual . . . . **is dead** . . .  
who has sustained **either**

- (1) irreversible cessation of circulatory and respiratory functions, **or**
- (2) irreversible cessation of all functions of the entire brain

176

Brain death  
=  
Death

177

**All** 56 US  
jurisdictions

178

Ga. Code Ann.  
§ 31-10-16  
(1982)

179

Legally  
**settled**  
since 1980s

180



181



182



183



184



185



186



187



188



189

Part **1**

190

Resistance to BD is **growing**

191

Part **2**

192

**Consequences** of resistance

193

Part **3**

194

**5** legal attacks on BD

195

**Growing resistance**

196

**More** families dispute BD

197

CONTEMPORARY ISSUES

Organ support after death by neurologic criteria  
Results of a survey of US neurologists **(200)**

Atine Lewis, MD  
Nelle Adams, BA  
Pasquini Vando, MD  
PhD  
David Green, MD, MA  
Arthur Caplan, PhD

**NEUROLOGY**  
**Aug. 2016**

198

**50%** report families request organ support **after** BD

199



200



201

“**reject** this diagnosis”  
“**deviate** from standard procedures”

202

**Not** just USA

203



204

Conflict: **10%**  
56 BD cases  
2014-2016

205

**More** conflict

206

Many cases to **court**

207



208



209



210



211



Request Legal Help

212



213



214

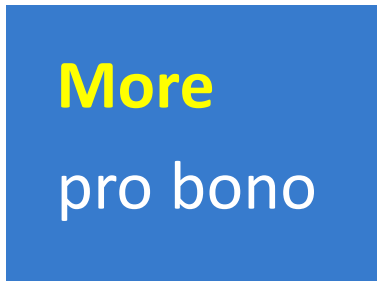


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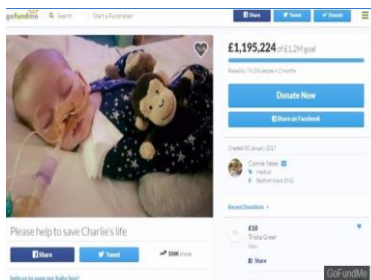
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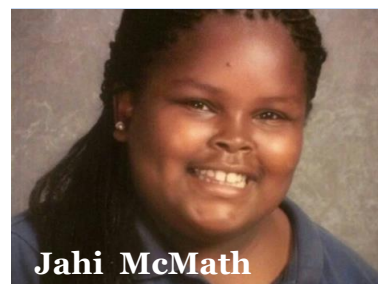
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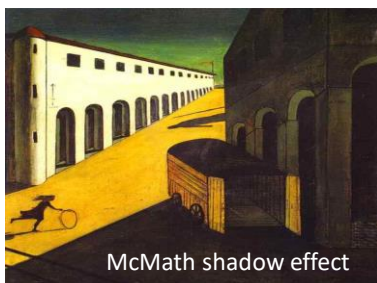
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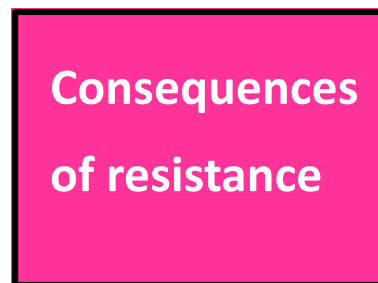
222



223



224



225



226

\$10,000 per day

227

Harm innocent 3<sup>rd</sup> parties

228

1

229



230

2

231



UNITED NETWORK FOR ORGAN SHARING

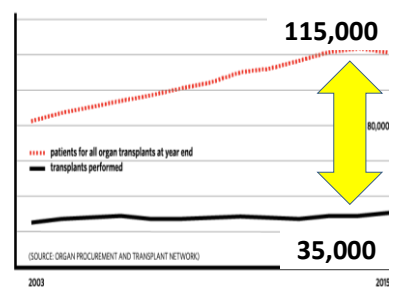
232

2018: More transplants than ever



There were more than **10,700** deceased donors in 2018.  
8th consecutive record breaking year.

233



234

5 Types of dispute

235

Least  
↓  
Most serious

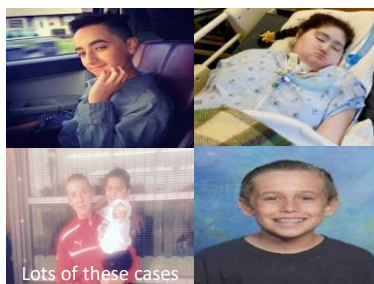
236

Attack  
1 of 5

237

Confusion  
Mistrust

238



239

Just 1  
example

240



241



242



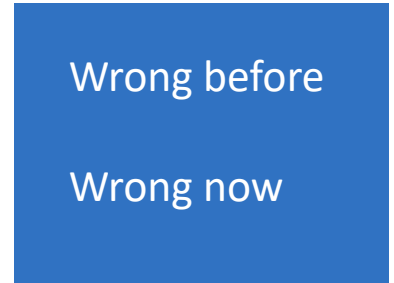
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244



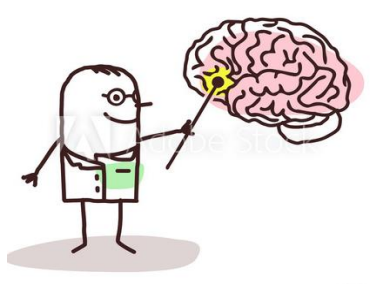
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246



247



248



249



250



251



252

That's  
**1<sup>st</sup>** attack  
on BD

253

**Attack**  
**2 of 5**

254

Want  
religious  
exemption

255



256

“[D]eath . . . **shall not be declared** . . .  
neurological criteria . . .  
. violate . . . **personal religious beliefs** . . . .”

257

Religious objection → No death by BD

258

Pt may  
**satisfy**  
BD criteria

259

**BUT**

260

May **not**  
declare  
death

261

**Until**  
death by  
CP criteria

262

Rejected  
**everywhere**  
outside NJ

263

**Still**  
asked for

264



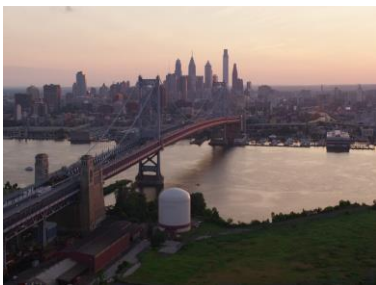
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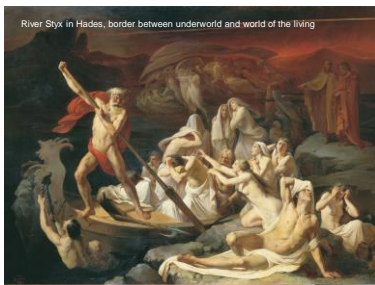
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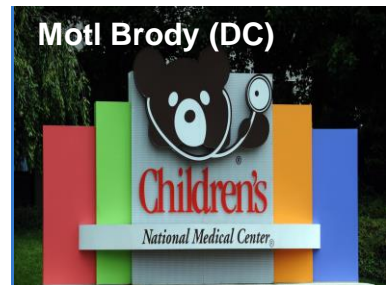
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268



269



270



Shahida Virk (Mich.)

271



Cho Fook Cheng (Mass)

272



273

AMENDED IN ASSEMBLY APRIL 10, 1986  
CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION  
**ASSEMBLY BILL** No. 3311

Introduced by Assembly Member **HHH Katz**

February 18, 1986

An act to amend Sections 14122 of the Welfare and Institutions Code, relating to Medi-Cal. An act to amend Section 7180 of the Health and Safety Code, relating to The Uniform Determination of Death Act.

LEGISLATIVE COUNSEL'S DIGEST  
AB 3311, as amended, **HHH Katz**. Medi-Cal covered benefits. The Uniform Determination of Death Act.

274

AMENDED IN ASSEMBLY APRIL 6, 1987  
CALIFORNIA LEGISLATURE—1987-88 REGULAR SESSION  
**ASSEMBLY BILL** No. 1390

Introduced by Assembly Member **Katz**

March 4, 1987

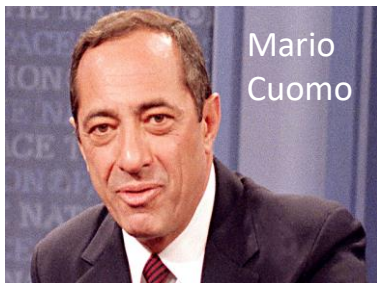
An act to add Section 1256.5 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST  
AB 1390, as amended, **Katz**. Health facilities: general acute care hospitals.

275

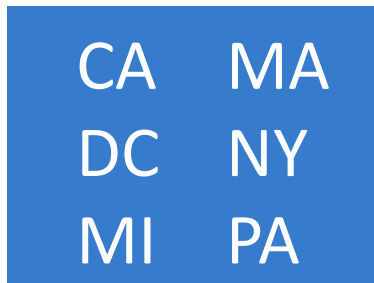


276



Mario Cuomo

277



278



279



280

Rejected  
**everywhere**  
outside NJ

281

**BUT**

282

New  
cases

283

**1**

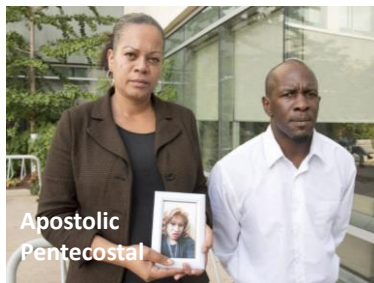
284



285



286



287

BD guidelines “failed  
to . . . accommodate . . .  
**religious beliefs**, . . .  
violate . . . constitutional  
and human rights”

288





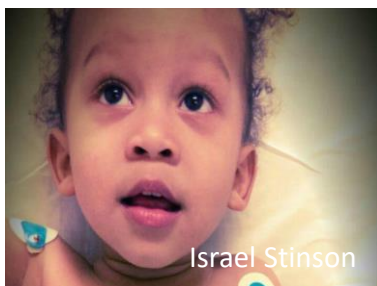
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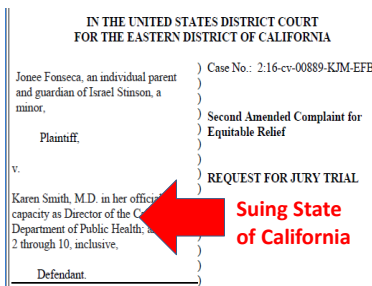
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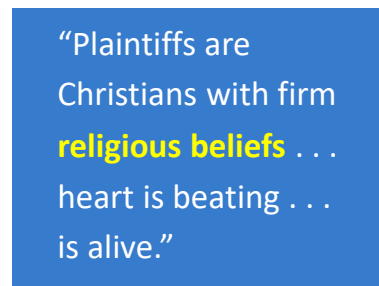
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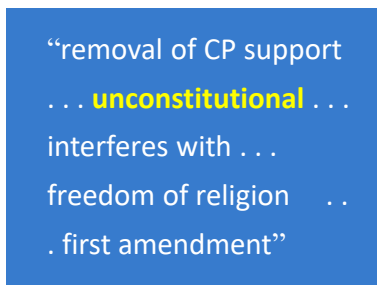
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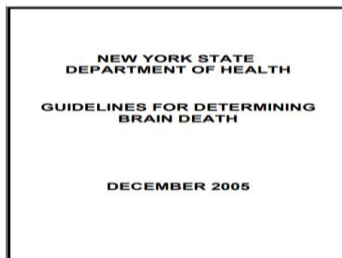
296



297



298



299

“Hospitals must establish written procedures for the **reasonable accommodation** of the individual’s religious or moral objections to use of the brain death standard to determine death.”

300



301

May see **more** of these cases

302



303

That’s **2<sup>nd</sup>** attack on BD

304

**Attack**  
**3 of 5**

305

Must clinicians obtain **consent** for BD tests?

306

Some try to **prevent** BD diagnosis

307

**Why?**  
this strategy

308

Clinician duties **after** BD

309

**Limited**

310

*Annals of Internal Medicine*  
American College of Physicians Ethics Manual  
Sixth Edition  
Lois Stryker, JD, for the American College of Physicians Ethics, Professionalism, and Human Rights Committee\*  
“After a patient . . . brain dead . . . medical support should be **discontinued.**”

311

*Views & Reviews*  
**CMAA**  
California Medical Association  
**Really, most SINCERELY dead**  
Policy and procedure in the diagnosis of death by neurologic criteria  
D.M. Shaner, MD; R.D. Orr, MD; T. Drought, PhD, RN; R.B. Miller, MD; and M. Siegel, MD  
“once death . . . diagnosed . . . **discontinue** support . . .”

312

Guidelines for Physicians: Forgoing Life-Sustaining Treatment for Adult Patients  
  
Joint Committee on Biomedical Ethics  
of the  
Los Angeles County Medical Association  
and  
Los Angeles County Bar Association  
  
Approved by the Los Angeles County Medical Association February 15, 2006  
Approved by the Los Angeles County Bar Association March 22, 2006  
“all medical interventions should be **withdrawn.**”

313

**Consent**  
**not**  
**required**

314

Dead → Not a patient

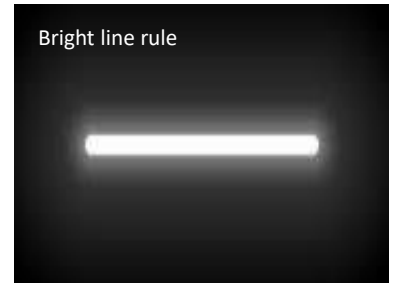
315

Not a patient → No Tx duty

316



317



318

No post-BD treatment rights

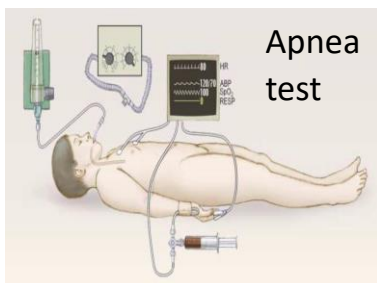
319

So,

320

Focus on pre-BD rights

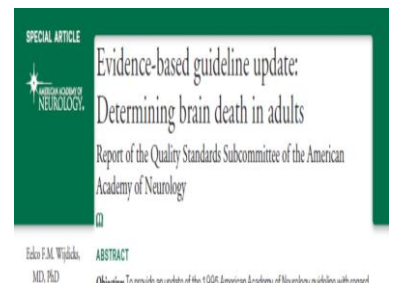
321



322

Final confirmatory test

323



324



Clinical Report—Guidelines for the Determination of Brain Death in Infants and Children: An Update of the 1987 Task Force Recommendations

Thomas A. Nakagawa, MD, Stephen Ashwal, MD, Mott

325

BUT

326

More family refusals

327



328

Parental refusals

329



330

No apnea test  
↓  
No BD

331

No BD  
↓  
Treatment duties continue until CP

332

Practically, same as NJ religious exemption

333

**Opt out**  
BD

334

No apnea test →  
**ancillary** tests

335

But **same**  
consent  
question

336

Must clinicians  
**honor** the  
refusal?

337

Do clinicians  
need **consent**  
for apnea test?

338



339

**Yes**

340

**Allen  
Callaway**

341



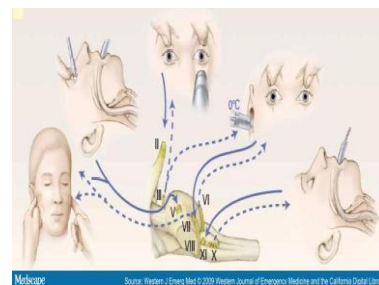
342



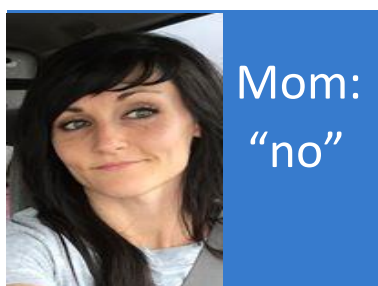
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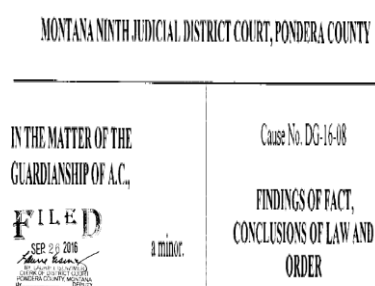
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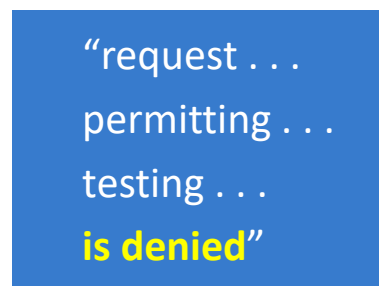
345



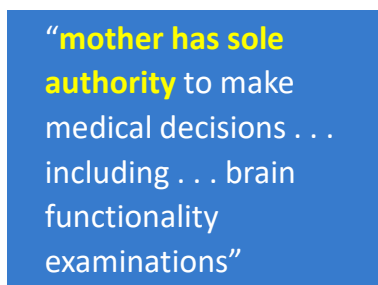
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347



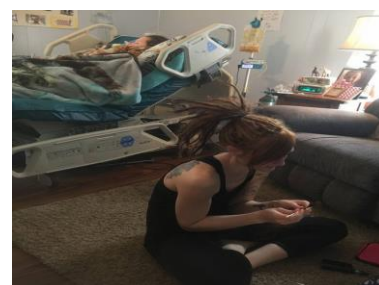
348



349



350



351



352

Do clinicians need **consent** for apnea test?

353

MT said **“yes”**

354

KS also said **“yes”**

355



356



357

Do clinicians need **consent** for apnea test?

358

CA also said **“yes”**

359

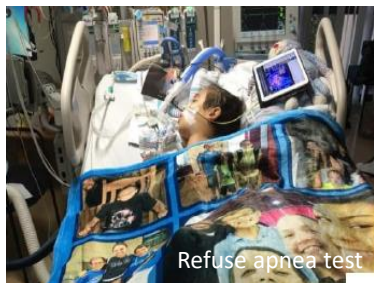


360

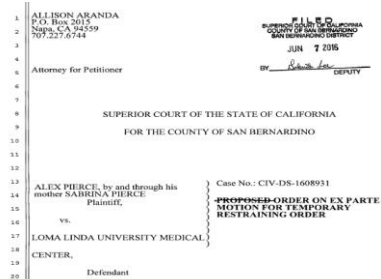




361



362



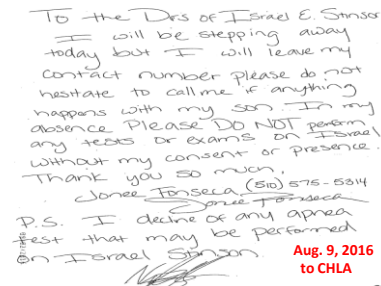
363



364



365



366

Do clinicians need **consent** for apnea test?

367

MT, KS, CA said **“yes”**

368

Plausible

369

Normally, may not do things to patient without **consent**

370



371



Med Mal

372

**No**

373



374

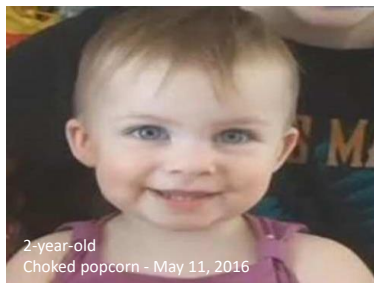
**Miranda Lawson**

375



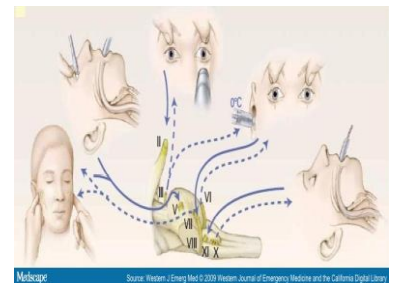
Richmond, Virginia

376

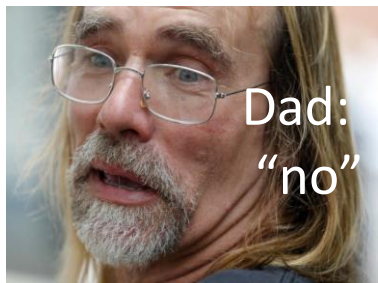


2-year-old  
Choked popcorn - May 11, 2016

377



378



379

I Alison Lawson and Patrick Lawson refuse any sort of "Brain Dead" testing including the "Apnea" test on our daughter Miranda Grace Lawson. We do not want the ventilator removed or cut-off for any amount of time. We are Christians and it is against our religious beliefs to remove the ventilator. Her heart is still beating. Removing life support will cause death. That is murder and is against the Christian faith.

Signed Alison Lawson 5/20/2016  
Patrick Lawson 5/20/2016  
 Witnessed Karen Ray 5/20/2016  
 Witnessed Liam Burke 5/20/2016

380



381

Hospital  
 "is . . . allowed  
 to administer  
 the apnea test"

382

Do clinicians  
 need **consent**  
 for apnea test?

383

VA said  
 "no"

384

NV also  
 said "no"

385



386



387

“determination of the death . . . is a clinical decision that does **not require the consent** of the person’s . . . representative . . .”

388

Do clinicians need **consent** for apnea test?

389



390

“The facility must make diligent efforts to notify the person closest to the patient that the process for determining brain death is underway. **Consent need not be obtained . . .**”

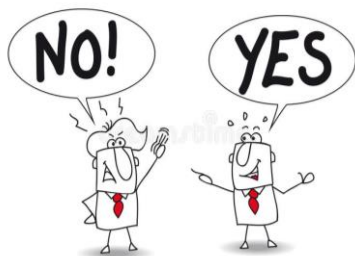
391



392



393



394

YES	NO
California	Nevada
Kansas	Virginia
Montana	Georgia
	New York

395

Conflict continues

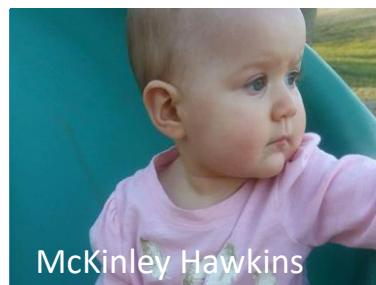
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397



398



399



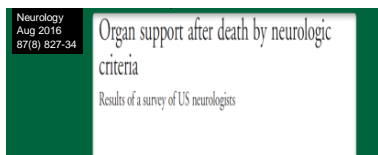
400



401



402



**1/4** neurologists say need consent

403



404



405

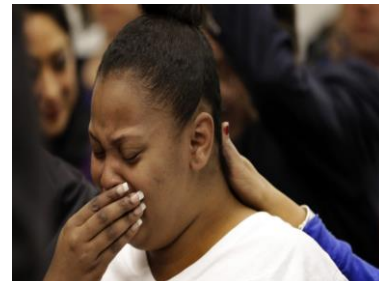


Jahi McMath

406

Dec. 12, 2013  
Declared dead

407



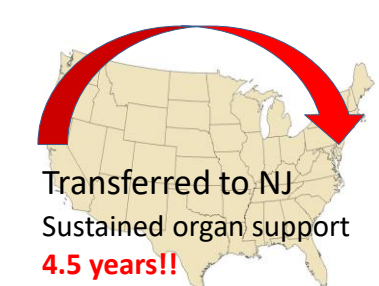
408

Lost lawsuits  
against  
hospital

409



410



Transferred to NJ  
Sustained organ support  
**4.5 years!!**

411

Mar. 2015  
Med Mal lawsuit

412

future  
medical  
expenses

413

Dead people  
do not have  
medical expenses

414

**Re-litigate**  
status  
as alive

415

Dec. 2013  
**+**  
Feb. 2019  
**-**

416

Argument  
over **facts**,  
not law

417

Does not attack  
medical criteria  
**themselves**

418



419

If alive, must  
**reexamine**  
medical criteria  
for BD

420

Dead at T1  
**↓**  
Not dead at T2

421

**Problem**

422

**stay** dead

423

Death  
should be  
**irreversible**

424



Collateral estoppel

425

Chance  
to prove

426



“Triable issue . . .  
whether changed  
circumstances”

427



June 2018

428



6/2018

429

ATTORNEY OR PARTY NOTICED: Attorney Name, Date for notice, and address: CEN 03570 Bruce M. Brodovich Agnew/Brodovich, 20355 Heathome Boulevard, 2nd Fl., Torrance, CA 90503 TELEPHONE NO.: (310) 785-1400 FAX NO. (310) 782-1499 E-MAIL ADDRESS: CEN@BROD ATTORNEY FOR PARTY Plaintiff: LATASHA NALAH SPEARS, et al.		FOR COURT USE ONLY FILED ALAMEDA COUNTY SEP 07 2018 CLERK OF THE SUPERIOR COURT [Signature]
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: 24405 Amador Street CITY AND ZIP CODE: Hayward, CA 94544 BRANCH NAME: Hayward Trial of Justice		
PLAINTIFF/PETITIONER: LATASHA NALAH SPEARS WINFIELD, et al. DEFENDANT/RESPONDENT: FREDERICK S. ROSEN, M.D., et al.		
REQUEST FOR DISMISSAL		CASE NUMBER: RG 15760730
A confirmed copy will not be returned by the clerk unless a method of return is provided with the document. This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.776)		
1. TO THE CLERK: Please dismiss this action as follows:		

430

**BUT**

431

That's **4<sup>th</sup>**  
challenge

432



**Attack  
5 of 5**

433

**Most**  
serious  
attack

434

Are medical  
criteria for BD  
**legally**  
sufficient?

435



436



437

**April 1, 2015**  
Catastrophic anoxic  
brain injury during  
exploratory  
laparotomy

438

**May 28, 2015**  
**Met** AAN criteria  
for brain death

439



440



441

Dad  
loses

442

Trial court  
AAN criteria met  
Aden is dead

443



444

Dad  
wins

445



446

**Irrelevant** if Aden  
meets AAN criteria  
**NOT** the  
“right” criteria

447

**2** reasons

448

**1**

449

UDDA

450

“must be made in accordance with **accepted medical standards**”

451

**BUT**

452

Research

Original Investigation

### Variability of Brain Death Policies in the United States

David M. Greer, MD, MA, Hilary H. Wang, BA, Jennifer D. Robinson, APRN, Paragviti N. Vardas, MD, PhD, Galen V. Henderson, MD, Editor: F. M. Wijdicks, MD, PhD

**IMPORTANCE** Brain death is the irreversible cessation of function of the entire brain, and it is a *med-legal* milestone in the reported certification of death in the United States and worldwide.

Supplemental content at [jama.neurology.com](http://jama.neurology.com)

453

### Variability of brain death determination guidelines in leading US neurologic institutions

David M. Greer, MD, MA, Paragviti N. Vardas, MD, PhD

**ABSTRACT**

**Background:** In accordance with the Uniform Determination of Death Act, guidelines for brain death determination are developed at an institutional level, potentially leading to variability of practice. We evaluated the differences in brain death guidelines in major US hospitals with a

454

### Improving uniformity in brain death determination policies over time

Hilary H. Wang, MD, Paragviti N. Vardas

**ABSTRACT**

**Objective:** To demonstrate that progress has been made in uniform brain death determination

455

## Neurology®

February 26, 2019; 92(9) **ARTICLE**

### Variability in reported physician practices for brain death determination

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

First published January 25, 2019, DOI: <https://doi.org/10.1212/WNL.0000000000007009>

456

AAN  
 $\neq$   
 Hospital policies  
 $\neq$   
 Clinicians

457

Number of physicians  
 Qualifications  
**How** tests administered

458

Hailu = AAN  
 AAN  $\neq$  UDDA

459

Court  
throws BD  
into **doubt**

460

**uncertainty**



461

Nevada  
**legislature**  
steps in

462



463

“accepted  
medical  
standards”

464

**AAN / AAP**  
authoritative  
criteria

465



466

**AAN** does **not**  
measure what  
the **UDDA**  
requires

467

**UDDA**

468

“irreversible  
cessation . . .  
**all** functions of  
. . . **entire** brain”

469

**BUT**

470

Brain dead  
people  
**do** stuff

471



472



473

AAN measures  
only cessation  
**some** functions  
of **part** of brain

474

Supposed to  
measure:  
“**all** functions”  
“**entire** brain”

475



476



477

UDDA

478

“**silent** on . . .  
diagnostic tests  
. . . procedures”

479

“medical profession  
**remains free** to  
formulate acceptable  
. . . practices”

480

**Defers** to  
medical  
profession

481

BUT

482

Discretion **not**  
unfettered



483

Medical criteria  
must measure  
legal standards

484

“**irreversible**  
cessation . . .  
**all** functions of  
. . . **entire** brain”

485

Medical criteria  
**drifted** too far  
from statute



486



487



488

**Legal** standard  
may demand  
more than  
**medical** criteria

489

**January  
2019**

490

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 Kinchler, MD, PhD,  
Michael A. Rubin, MD, MA, and Ariane Lewis, MD, on behalf of the Brain Death Working Group

Neurology® 2019;92:1-5. doi:10.1212/WNL.0000000000006750

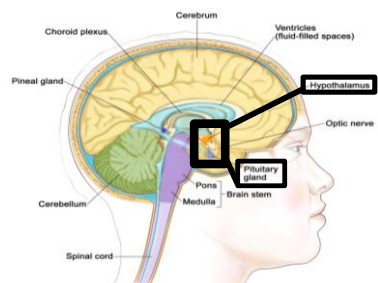
Correspondence

JA Russell  
james.a.russell@ahy.org

491

“neuroendocrine function  
**may be present** . . . not  
inconsistent with the  
whole brain standard of  
death.”

492




493

**UDDA**

494

Supposed to  
measure:  
“**all** functions”  
“**entire** brain”

495

Medically dead  
  
Legally dead

496

Conclusion

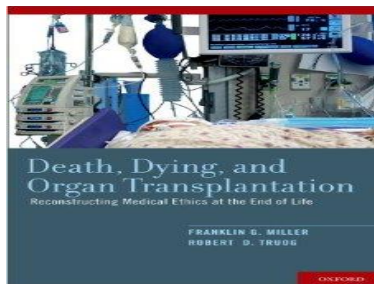
497

Debate  
has been  
**academic**

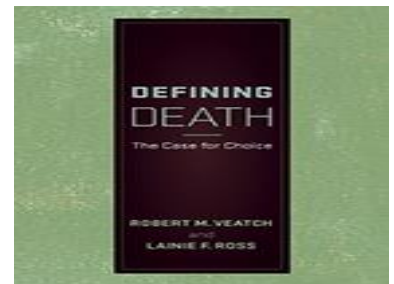
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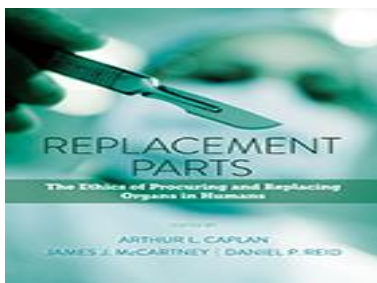
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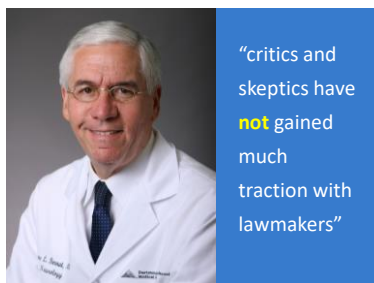
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501



502



503

**Not** true  
anymore

504





505

**Not** just  
more scrutiny  
more debate

506

**Now** it is a  
public policy  
question

507

U.S. hospitals  
will see  
**more** cases

508

**GHA**  
Georgia Hospital Association

“Determining whether a patient is alive or dead is the **most fundamental aspect** of providing medical care.”

509

**Life** | **Death**

510

**Life** | **Death**

511



512



513

# Case

514



515



516

But we've got to **verify** it legally,  
to see if she  
is morally, ethically  
spiritually, physically  
positively, absolutely  
undeniably and reliably Dead

517



518

And she's not only  
**merely** dead,  
she's really most  
**sincerely** dead.

519

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W www.thaddeuspope.com  
B medicalfutility.blogspot.com

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## References

521

Materials from the  
cases discussed in  
this presentation  
are available at

<http://thaddeuspope.com/braindeath>

522

## Medical Futility Blog

Since July 2007, I have been blogging, almost daily, to [medicalfutility.blogspot.com](http://medicalfutility.blogspot.com). This blog focuses on reporting and discussing legislative, judicial, regulatory, medical, and other developments concerning medical futility and end-of-life medical treatment conflicts. The blog has received nearly **4 million** direct visits. Plus, it is distributed through RSS, email, Twitter, and re-publishers like WestlawNext and Bioethics.net.

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