

To:
The Honorable Samuel Thumma
and Members of the Determination of Death Act Committee
Uniform Law Commission
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In light of the possibility 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 own life on earth. The precise moment when his life ends is of paramount importance. 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 that the person is innocent of 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 and tissues and maintained by the liver and white blood cells. There is urine production, maintenance of body temperature, homeostasis of many interdependently functioning organs and systems. If the patient is a pregnant woman, 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.

The Procedure of the Apnea Test (PAT) is commonly done in the clinical determination of death. This procedure is most often dangerous causing even more damage to the patient. The PAT includes disconnection from the life supporting ventilator for up to 10 minutes. Thus, no breaths for 10 minutes! Death by neurological criteria (DNC) is declared while the heart is beating with circulation, respiration, and interdependent functioning of many organs and systems. Such a patient *is not a corpse or cadaver* suitable for burial or cremation.

The statute should protect the person from being declared dead when they are still alive. Full and complete information about the PAT and any tests used to declare DNC must be provided to the family or surrogate with the freedom to decline the PAT and DNC. Treatment options ought to protect and preserve the life of this patient, even if severe disability is a potential outcome. Treatments should be offered and not denied by caregivers (i.e., doctors/nurses etc.) based on quality-of-life judgments – even though patients or surrogates may refuse them based on being extraordinary.

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 dead. It must be more than absence of functioning, function, or functions. There must be destruction of the circulatory, respiratory, and central nervous systems (brain).

Suggested wording: **"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,

Signature: _____ Date: _____

Address: _____

E-mail: _____