

## Statement of the National Association Of Pro-Life Nurses against the Potential Revision of the Uniform Determination of Death Act (UDDA)

The National Association of Pro-life Nurses is a not-for-profit organization uniting nurses who seek excellence in healthcare for our patients and families-especially for the most vulnerable- by advocacy, education and upholding the highest ethical standards.

This is why we are concerned about the potential revision of the 1981 Uniform Determination of Death Act to assure a uniform national standard for determination of brain death and consent for brain death testing.

Unlike biological death determined by the irreversible stopping of breathing and heartbeat, brain death by neurologic criteria is supposed to mean the irreversible cessation of ALL brain function, even if the heart and lungs can be maintained with machines.

However, that supposition has been challenged by like diagnosed brain death cases like the supposedly “impossible” prolonged survival and maturation of [Jahi McMath](#), the unexpected recoveries like [Zack Dunlap’s](#) and [some mothers declared “brain dead” who were able to gestate their babies for weeks or months to a successful delivery](#).

Most recently, on March 16, 2023, the Wilkes Journal-Patriot newspaper in North Carolina published an article [“‘Clinically dead’ pastor recovering](#) about Ryan Marlow, a father of three young children who was pronounced “clinically deceased” and brain dead” after “a severe case of Listeriosis impacted Ryan’s neurological system, causing abscesses on his brain stem and leaving him in a deep coma” in August, 2022.

“The hospital recorded his time of death but he remained on life support to keep his organs live before removing them since he was an organ donor.” The wife insisted on further testing and that showed he had blood flow to his brain.

According to the news article, “On Oct. 6, 2022, he awoke from a coma by indicating yes to a simple question from a therapist”, Ryan is now home and making more progress with rehab.

We agree with the 2021 statement by [107 experts in medicine, bioethics, philosophy, and law, who are challenging the proposed revisions to the UDDA](#). While they admit that they “do not necessarily agree with each other on all aspects of the brain-death debate or on fundamental ethical principles”, they do object to three aspects of the revision to:

“(1) specify the Guidelines (the adult and pediatric diagnostic guidelines) as the **legally recognized “medical standard,”** (2) to **exclude hypothalamic function from the category of “brain function,”** and (3) to authorize physicians to conduct an **apnea test without consent and even over a proxy’s objection.**” (All emphasis added)

These experts’ objections to those proposed revisions are that:

“(1) the Guidelines have a **non-negligible risk of false-positive error,** (2) hypothalamic function ([a small but essential part of the brain helps control the pituitary gland and regulates many body functions](#)) is more relevant to the organism as a whole than any brainstem reflex, and (3) **the apnea test carries a risk of precipitating BD (brain death) in a non-BD patient**...provides no benefit to the patient, does not reliably accomplish its intended purpose”... and **“should at the very least require informed consent,** as do many procedures that are much more beneficial and less risky.” (All emphasis added)

And that:

“People have a right to not have a concept of death that experts vigorously debate imposed upon them against their judgment and conscience; any revision of the UDDA should therefore contain an opt-out clause for those who accept only a circulatory-respiratory criterion.”

### CONCLUSION

Years ago, Nancy Valko, spokesperson for NAPN, personally served on a hospital ethics committee when a doctor complained that he could not arrange an organ transplantation from an elderly woman in a coma caused by a stroke because she “failed” one of the hospital’s mandated tests for brain death. He said he felt like he was “burying two good kidneys”.

“Although I already knew that the [medical criteria used to determine brain death vary — often widely — from one hospital to another](#), one young doctor checked our area hospitals and came back elated after he found a hospital that did not include the test the elderly woman ‘failed’. He suggested that our hospital adopt the other hospital’s criteria to allow more organ donations.

When I pointed out that the public could lose trust in the ethics of organ donations if they knew we would change our rules just to get more organ transplants, I was told that I was being hard-hearted to people who desperately needed such organs.

We must have trust, transparency and adequate information in our healthcare system to truly serve our patients well.” (Nancy Valko)

