

CALIFORNIA LAW

Article 1. Uniform Determination of Death Act

Section 7180.

(a) An individual who has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2) irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

(b) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(c) This article may be cited as the Uniform Determination of Death Act.

Article 2. Confirmation of Death

Section 7181.

When an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be independent confirmation by another physician.

Section 7182.

When a part of the donor is used for direct transplantation pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150)) and the death of the donor is determined by determining that the individual has suffered an irreversible cessation of all functions of the entire brain, including the brain stem, there shall be an independent confirmation of the death by another physician. Neither the physician making the determination of death under Section 7155.5 nor the physician making the independent confirmation shall participate in the procedures for removing or transplanting a part.

Section 7183.

Complete patient medical records required of a health facility pursuant to regulations adopted by the department in accordance with Section 1275 shall be kept, maintained, and preserved with respect to the requirements of this chapter when an individual is pronounced dead by determining that the individual has sustained an irreversible cessation of all functions of the entire brain, including the brain stem.

Section 7184.

(a) Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7. With the approval of the designated next of kin or other individual, as set forth in Section 7151, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

(b) A general acute care hospital shall comply with subdivision (a) or (c) as a condition of participation in the Medi-Cal program contained in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) Notwithstanding subdivision (a), the protocol may alternately provide for the hospital to contact an organ and tissue procurement organization at the time a potential organ and tissue donor is identified, and for the trained personnel of the organ and tissue procurement organization to make the inquiries described in subdivision (a) of the deceased individual's next of kin or other individual as set forth in Section 7151.

Section 7184.5.

(a) In conjunction with entering into any agreement with any coroner or medical examiner for release and removal of organs from bodies within that official's custody and to further the purposes of Section 27491.45 of the Government Code, a procurement organization shall develop a protocol for organ recovery, as appropriate, that provides sufficient information on the medical and injury status of the deceased to permit release and removal of organs without undue prejudice to that official's investigation of, or inquiry into, the cause of death.

(b) The protocol described in subdivision (a) shall be subject to approval by the coroner or medical examiner before release or removal of organs and shall provide for the following:

(1) Relevant information on the deceased to be given to the coroner or deputy coroner at the time of the initial request for permission to recover internal organs, including, but not limited to:

(A) Information identifying the deceased.

(B) Date and time of pronouncement of brain death.

(C) Name of procurement organizations and coordinator.

(D) Organs requested.

(E) Organ donor number and hospital.

(F) Apparent cause and manner of death.

(G) A brief description of alleged circumstances surrounding the death to the extent they are known at the time.

(H) The law enforcement agency and the name of the investigating officer handling the case.

(2) The following information, to be recorded by the organ procurement coordinator at the time of requesting permission for organ removal:

(A) The name of the deputy coroner contacted.

(B) The name of the pathologist contacted by the deputy coroner.

(C) Whether permission for removal was obtained at the time, including the date and time if permission was obtained.

(D) The coroner's case number assigned by the deputy coroner.

(E) If the request for organ removal is refused, the reason given for the refusal.

(3) A checklist to be completed prior to recovery of any organ by the procurement organization coordinator with the assistance, if necessary, of a physician attending the deceased, that includes, at a minimum, all of the following:

(A) medical record review to insure documentation of external injuries, fractures, and internal injuries.

(B) In cases of suspected child abuse, whether:

(i) A child abuse consult was obtained.

(ii) A computerized axial tomographic scan or magnetic resonance image of the head was obtained.

(iii) A radiological skeletal survey was done.

(iv) The presence or absence of visible injury to the back of the scalp, ears, nose, and mouth, or retinal hemorrhage has been documented.

(v) A coagulation screen report was in the deceased's records.

(C) A photographic record of visible external injuries.

(D) Admitting blood sample, if available, and the date and time the sample was drawn.

(4) A checklist of items to be provided to the coroner's office when the deceased's body is released after completion of organ recovery, including, but not limited to, all of the following:

(A) A copy of the deceased's medical records.

(B) Film documenting abnormal findings, if used.

(C) The information recorded pursuant to the requirements of this subdivision.

(D) A sample of the deceased's blood, if taken on admission.

(5) A form, completed by the physician and surgeon, technician, or team performing the organ recovery procedure and signed by the physician and surgeon, that describes in sufficient detail all of the following:

(A) Tests used to determine the suitability for transplantation of all organs recovered.

(B) Documentation of injuries and other abnormalities, if any, noted or occurring during the organ recovery procedure.

(C) The date and time organ recovery was started.

(D) Any other information on the state of the deceased's body or organs that the physician and surgeon, technician, or team believes may assist the coroner in his or her investigation or inquiry.

(c) The requirements of subdivision (a) shall not apply in any county that does not have a Level II trauma facility, as defined in Section 1798.160 and the regulations adopted pursuant thereto.

(d) Notwithstanding any other provision of law, a health care provider may release the information described in this section to the procurement organization, the coroner, or the medical examiner.

(e) For purposes of this section, "organ" or "organs" means internal whole organs, including, but not limited to, the heart, kidneys, the liver, and lungs, but does not include eyes, skin, or other similar tissue.

CAL. HSC. CODE § 1254.4 :

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(a)A general acute care hospital shall adopt a policy for providing family or next of kin with a reasonably brief period of accommodation, as described in subdivision (b), from the time that a patient is declared dead by reason of irreversible cessation of all functions of the entire brain, including the brain stem, in accordance with Section 7180, through discontinuation of cardiopulmonary support for the patient. During this reasonably brief period of accommodation, a hospital is required to continue only previously ordered cardiopulmonary support. No other medical intervention is required.

(b)For purposes of this section, a "reasonably brief period" means an amount of time afforded to gather family or next of kin at the patient's bedside.

(c)(1)A hospital subject to this section shall provide the patient's legally recognized health care decision maker, if any, or the patient's family or next of kin, if available, with a written statement of the policy described in subdivision (a), upon request, but no later than shortly after the treating physician has determined that the potential for brain death is imminent.

(2)If the patient's legally recognized health care decision maker, family, or next of kin voices any special religious or cultural practices and concerns of the patient or the patient's family surrounding the issue of death by reason of irreversible cessation of all functions of the entire brain of the patient, the hospital shall make reasonable efforts to accommodate those religious and cultural practices and concerns.

(d)For purposes of this section, in determining what is reasonable, a hospital shall consider the needs of other patients and prospective patients in urgent need of care.

(e)There shall be no private right of action to sue pursuant to this section.