

Brain Death Bioethics

Fundamental Principles & Emerging Issues

Thaddeus Mason Pope, JD, PhD

Eighth Annual Great Lakes

Palliative Care Conference

Lake Geneva WI • May 3, 2019

Nothing
to disclose

April 21, 2019



nature

TURNING BACK TIME

Collaborative
researchers
have developed
a new technique
that can reverse
certain changes
in cells. See pages

ECONOMIC POLICY
SHIFTS FORWARD
Peter Gosselin, a political scientist
from the University of Texas at Austin

CLIMATE CHANGE
IN A FLASH
David Biello, a science writer based in New York City

**500,000
CORONAVIRUS**
Infectious disease experts
are racing to understand the
virus that has spread to more than 100 countries



By Michael
Mann
and
David Biello



“Restoration of
brain circulation
and cellular
functions hours
post-mortem”



Scientists Restore Some Brain Function **After** Death

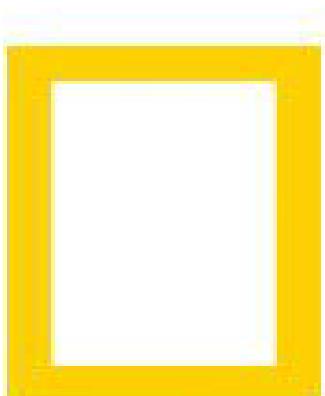
THE WALL STREET JOURNAL.

[U.S. Edition ▾](#) | [April 20, 2019](#) | [Print Edition](#) | [Video](#)

Can dead
brains come
back to life?

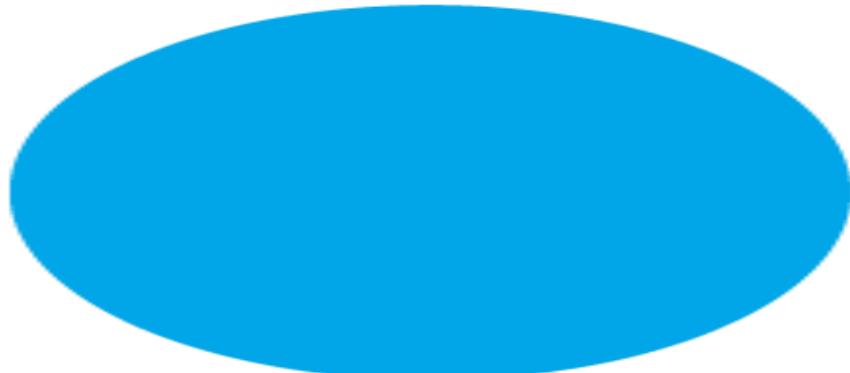
TORONTO STAR

Pig brains partially
revived hours **after**
death—what it
means for people



**NATIONAL
GEOGRAPHIC**

A dead pig's brain
was brought
back to life



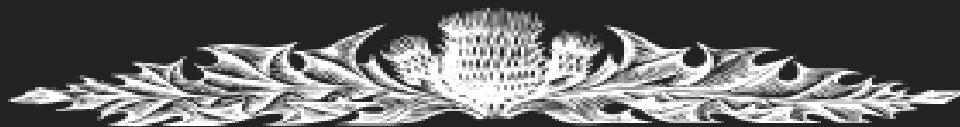
**USA
TODAY
NEWS**™

Frankenswine:

Scientists bring

brains of dead pigs

‘back to life’



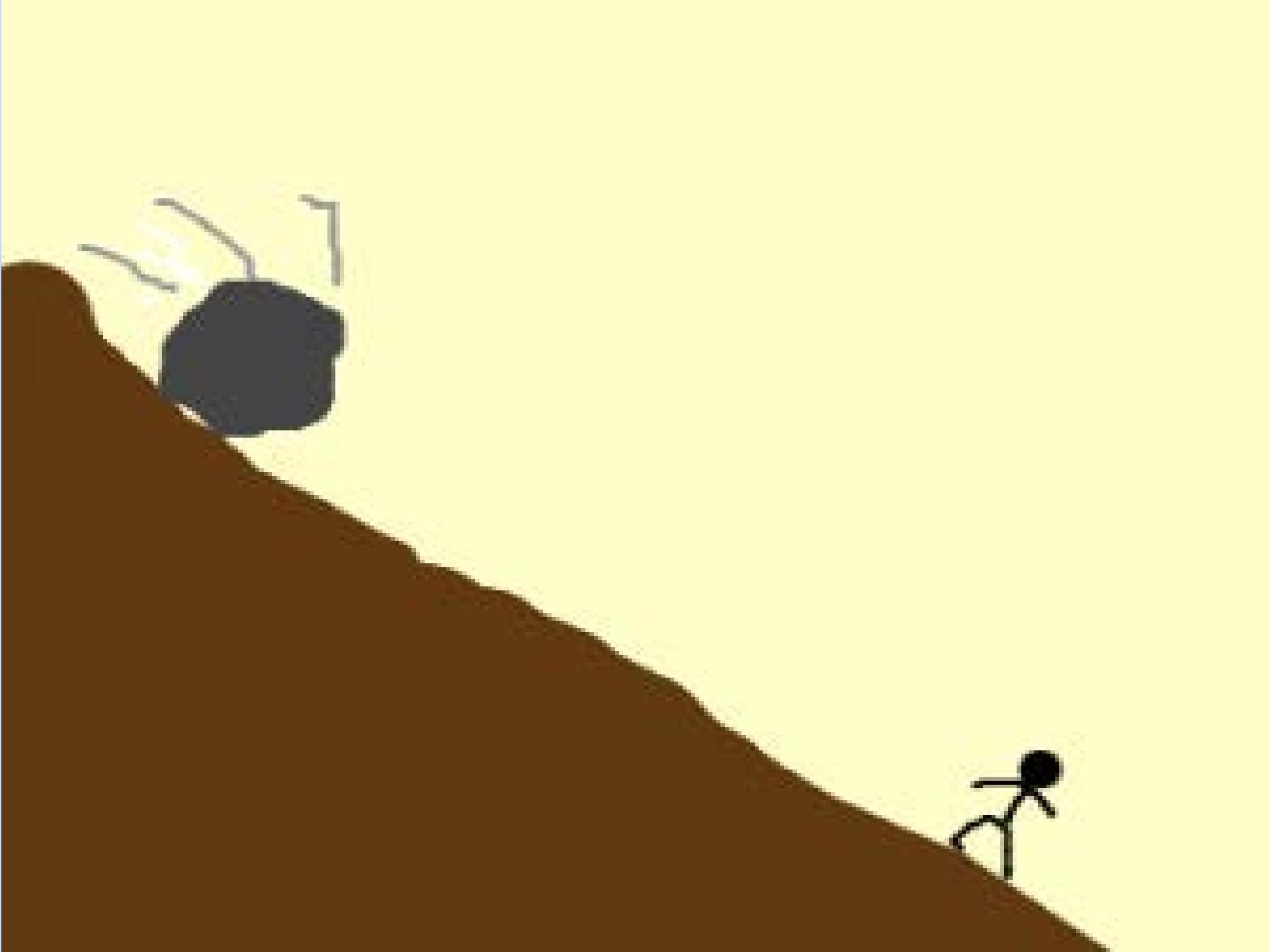
THE SCOTSMAN

SCOTLAND'S NATIONAL NEWSPAPER

Brain death

=

death ?

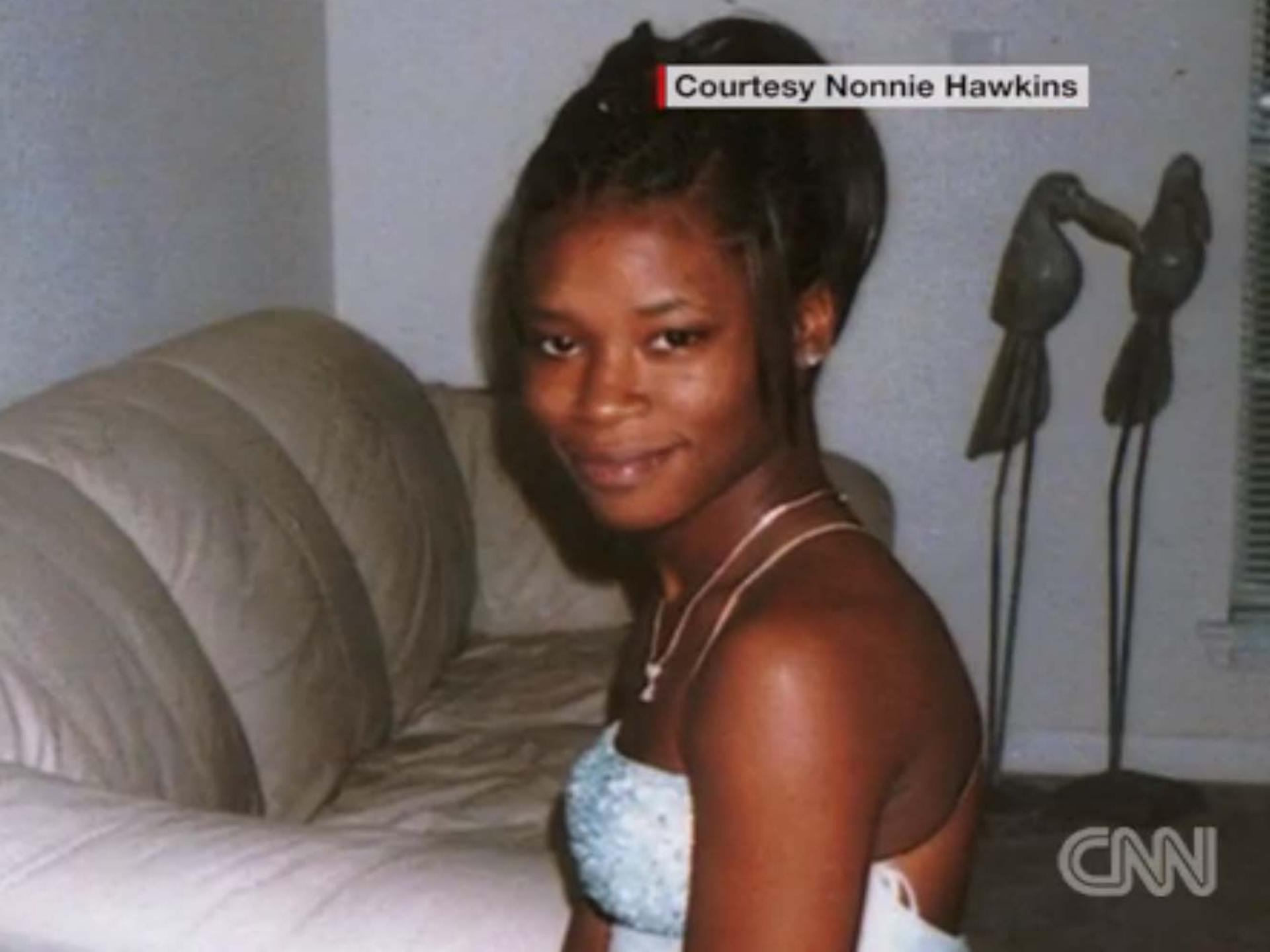


case



Tara Marie Bottoms-Hawkins

Courtesy Nonnie Hawkins



CNN

November

2003

Georgia Perimeter College
Clarkston Campus

A TWO YEAR UNIT OF THE UNIVERSITY SYSTEM OF GEORGIA

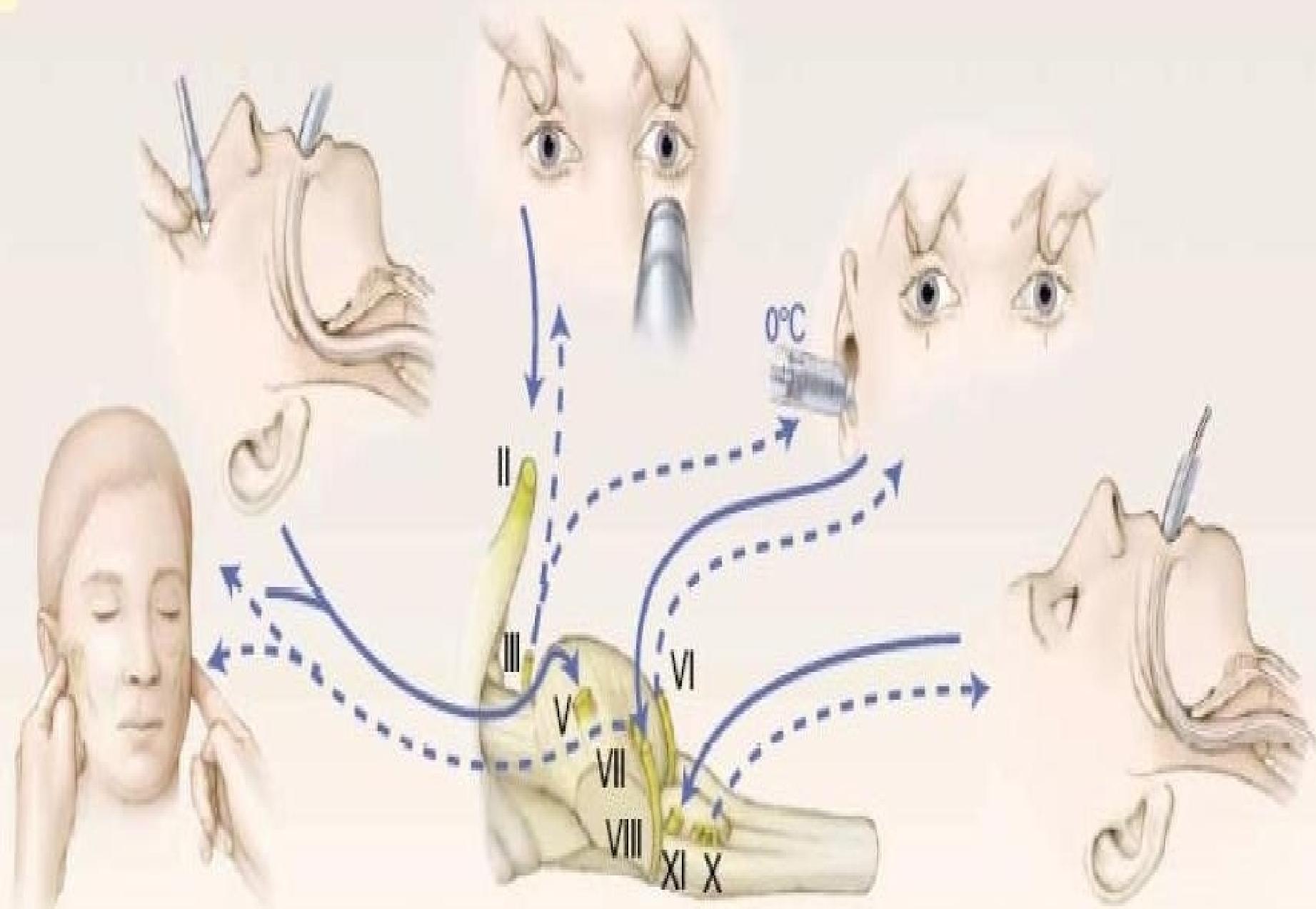




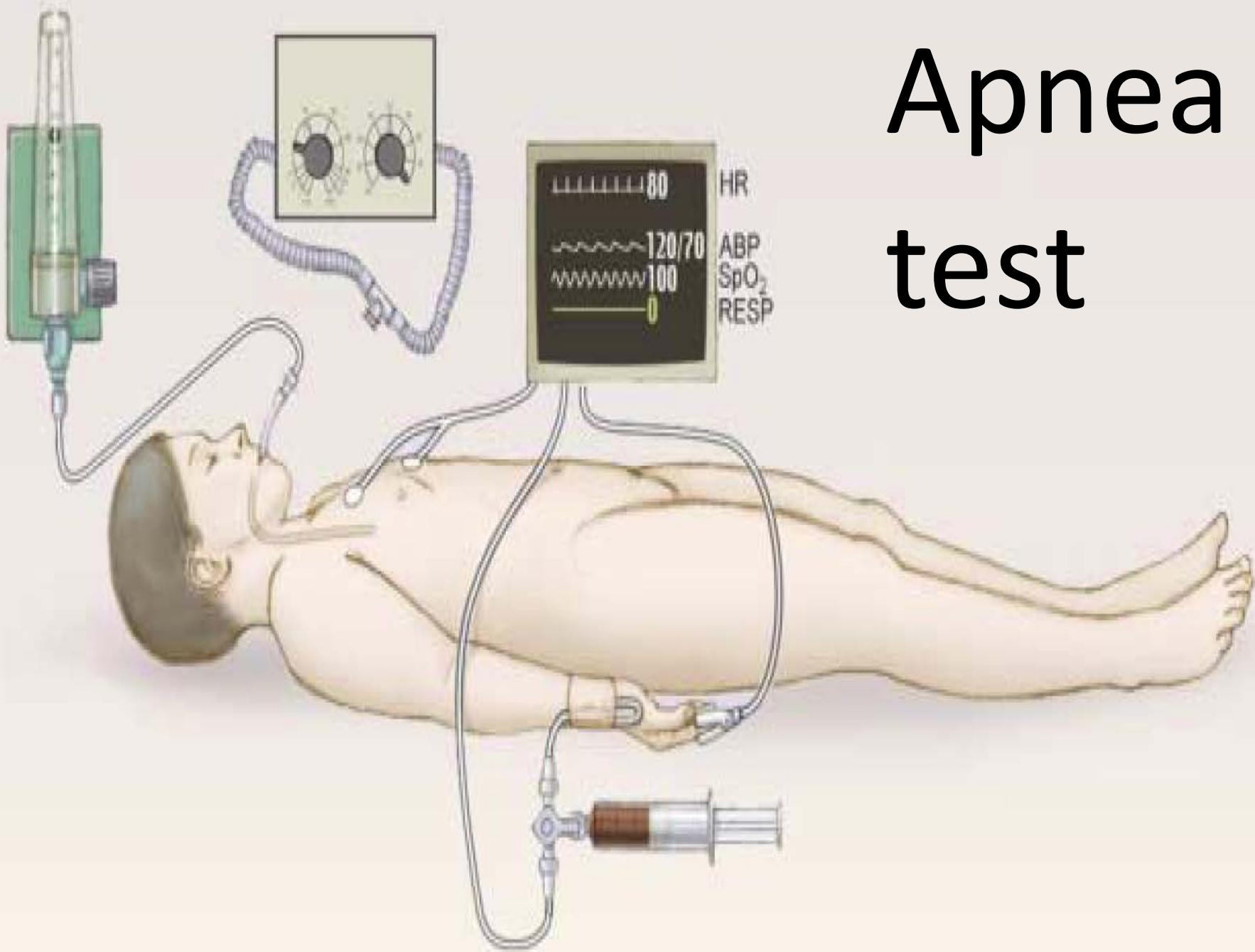
DeKalb Medical







Apnea test



Plan

w/d organ-
sustaining Tx



Without

consent



2006

“tortuous
termination
of life support”

GEORGIA SUPREME COURT

A photograph of the Georgia Supreme Court building, a large, light-colored stone structure with a classical facade featuring columns and a prominent entablature. The building is set against a bright, slightly overexposed sky. In the foreground, a large, semi-transparent white rectangular box covers the lower half of the image. Inside this box, the words "GEORGIA SUPREME COURT" are printed in a large, bold, black sans-serif font. The building's architecture is visible through the transparency of the box.

Alive

Dead

Alive

Medical futility conflict

Family decision

Dead

Straightforward

Clinician control

MERITER HOSPITAL

Madison, WI

**GUIDELINES REGARDING DECISIONS
TO WITHHOLD, USE OR WITHDRAW
LIFE-SUSTAINING TREATMENT**

SECTION 4 THE DECISION-MAKING PROCESS

PAGE 7

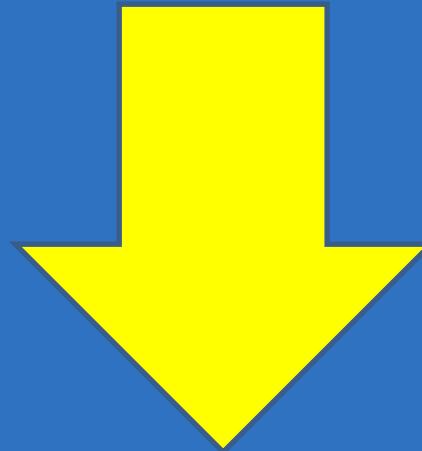
4.1 Diagnosis, Prognosis and Uncertainties	7
4.2 Patient/Surrogate Makes the Decision in Dialogue with the Physician	7
4.3 Discussion of Benefits and Burdens	8
4.4 When Patient Capacity is Uncertain or Fluctuates	8
4.5 When the Patient Clearly Lacks Capacity	8
4.6 Deciding Whether to Withhold and Brain Death Definition	9
4.7 Care of Infants and Minors with Life-Threatening Conditions	10
4.8 Documenting the Decision	11

“decision-making
process is unnecessary
when the patient meets
. . . brain death” (4.63)



Tara Marie Bottoms-Hawkins

Dead



w/d okay

2006 -

2011

May
2019

What's
different
today?

Roadmap

4 parts

Part 1

Intro to BD

Part 2

Resistance

to BD is

growing

Part 3

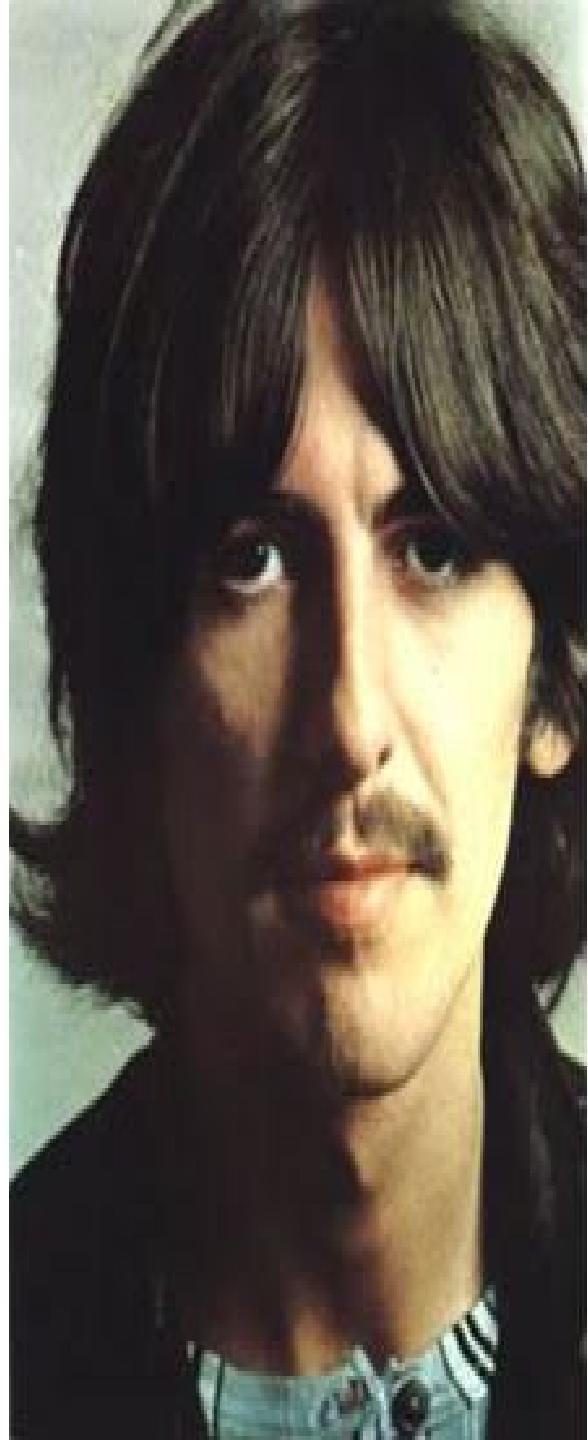
Consequences of resistance

Part 4

5

legal
attacks
on BD

1968



LIFE

SPECIAL
DOUBLE
ISSUE

Picasso





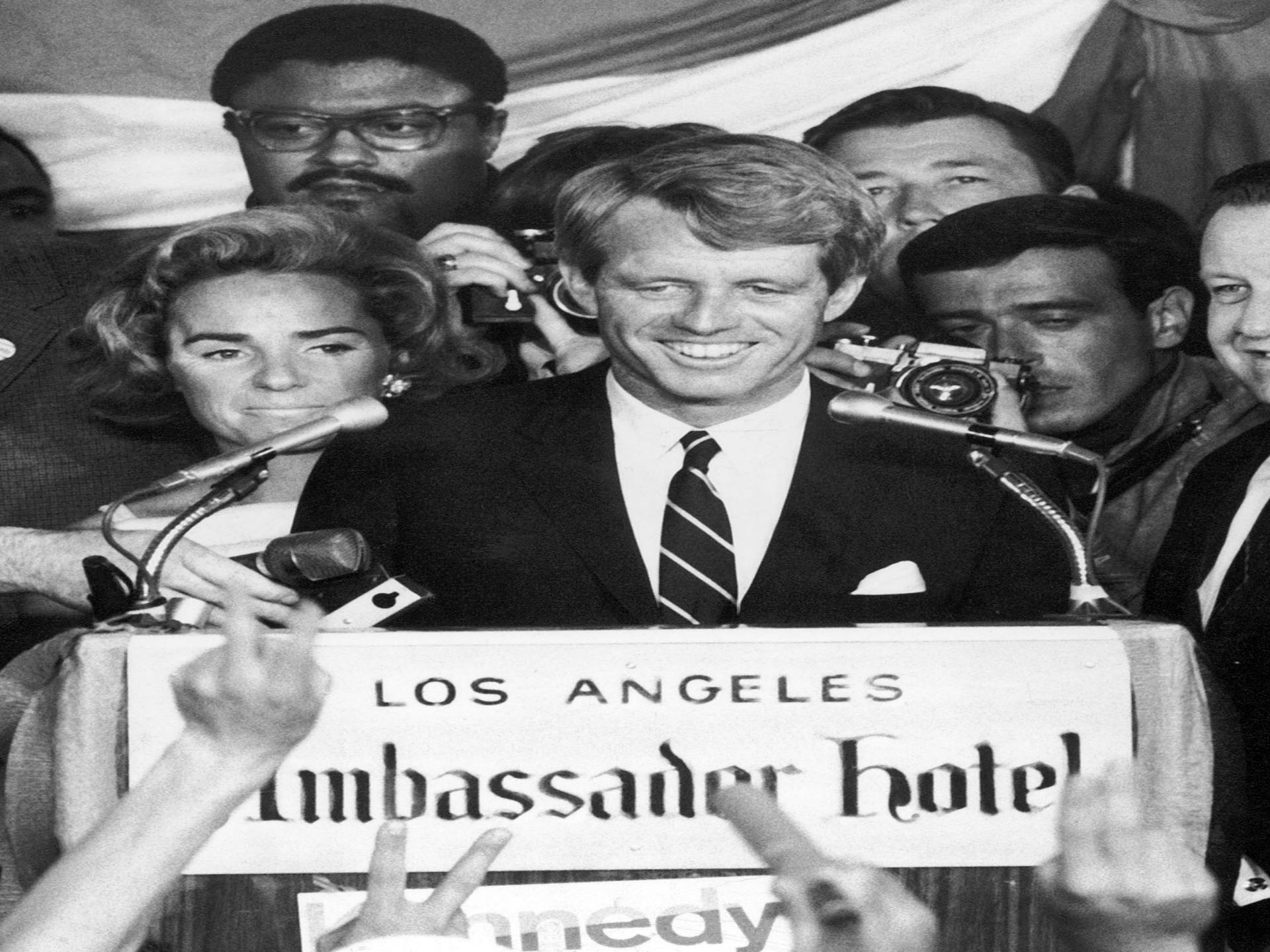
SHINES ALUMINUM

1A400

1A400
24/18
PAD
GIANT







LOS ANGELES

Ambassador hotel

Kennedy

ork
ork

LUNCH
Mu



1968

Only 1 way
to determine
death

irreversible cessation

of **circulatory &**

respiratory functions

BUT



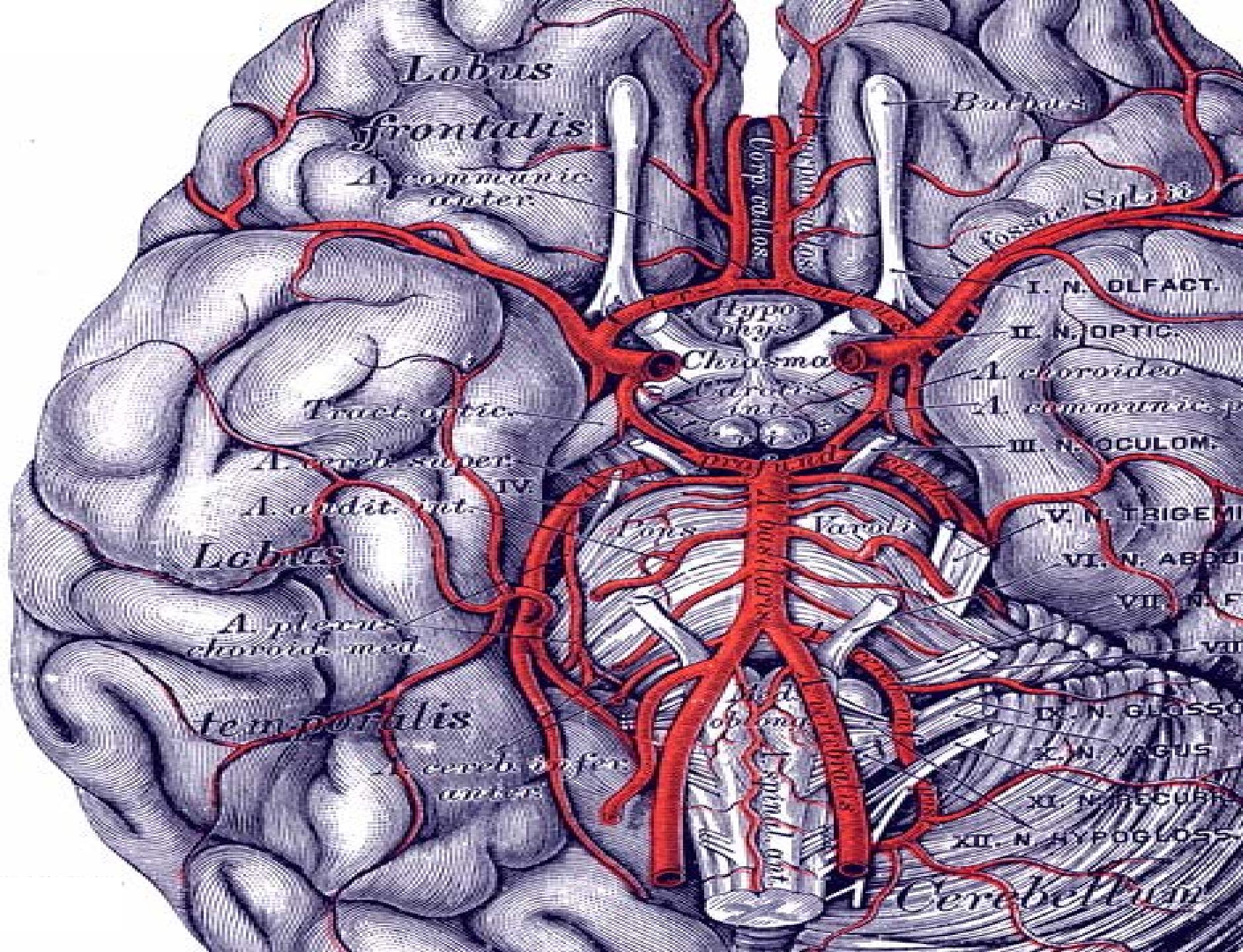
The Swiss painter, Arnold Böcklin, frequently introduced a mythological atmosphere into his work. Here "Plague," executed in 1898 during the last world pandemic, is shown as Death astride a black swarming monster. It was that epidemic which brought plague to the western United States, whence the infection became transmitted to native wild rodents, as sylvatic plague, occasionally transmitted back to man (see p 333). The original of the painting is from the Gottfried Keller Foundation, in the Basel Art Museum, Switzerland.

JAMA, Aug 5, 1968 • Vol 205, No 6

A Definition of

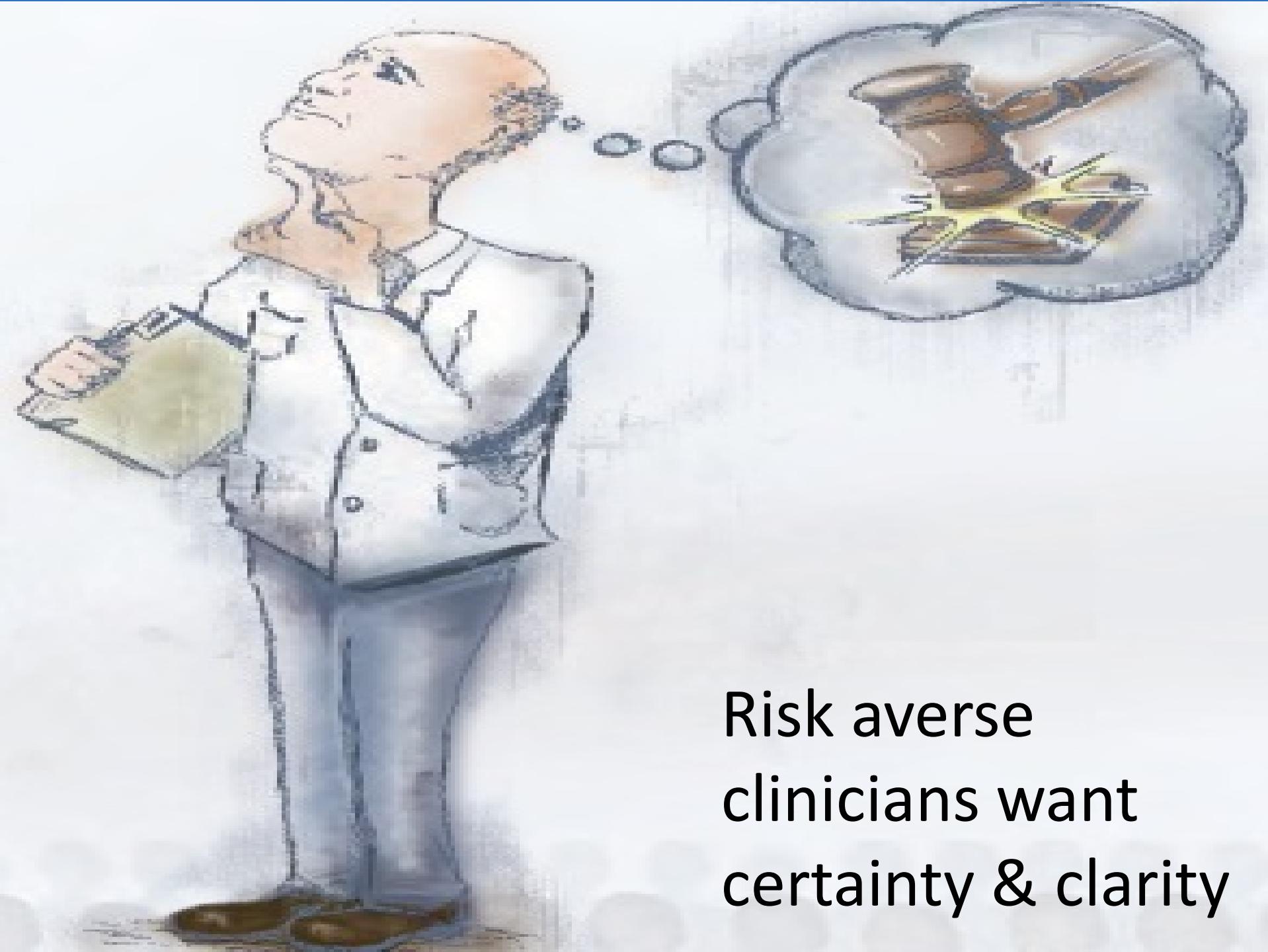
Irreversible Coma

Report of the Ad Hoc Committee of the Harvard Medical School
to Examine the Definition of Brain Death

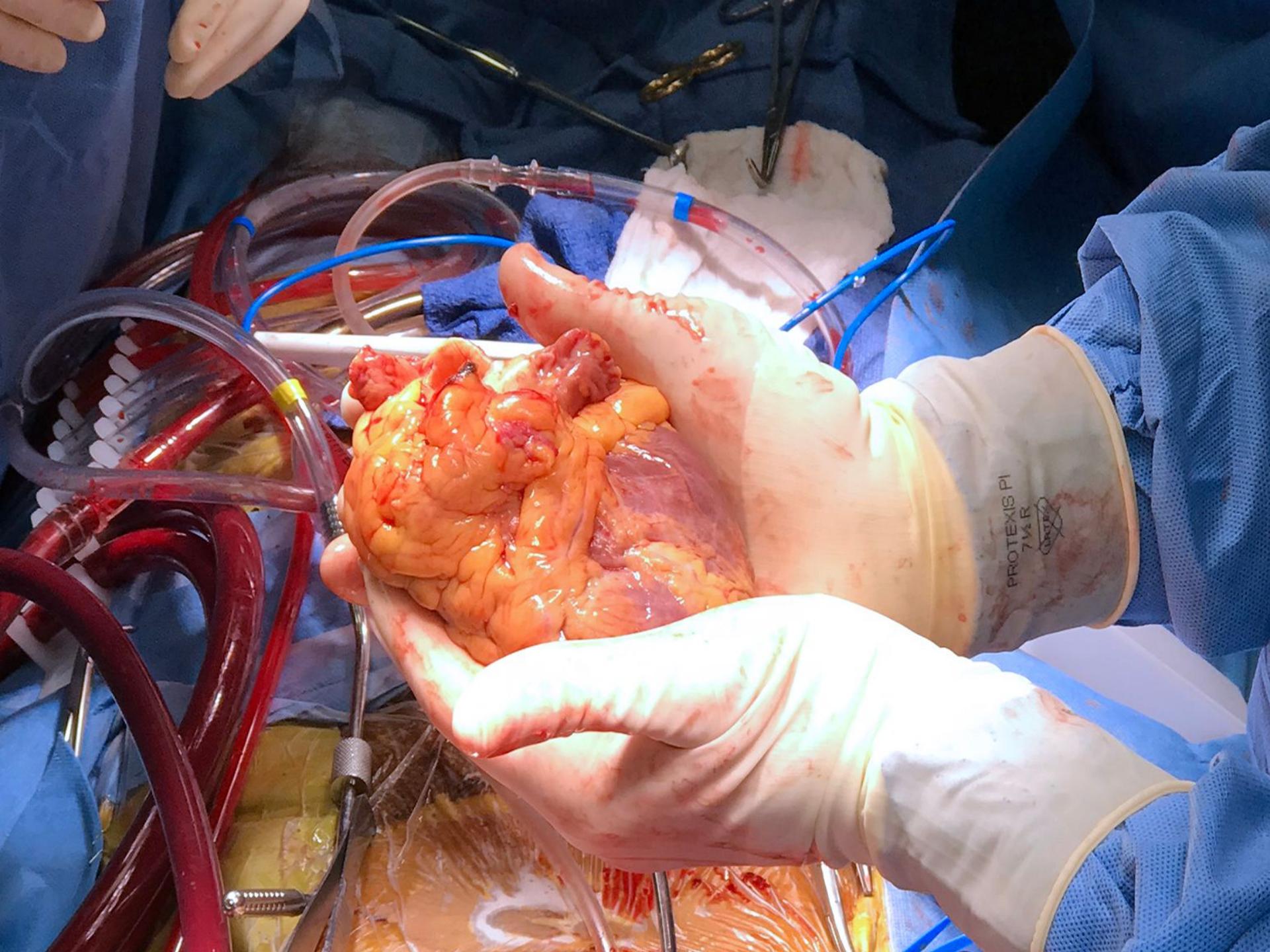


If this position is adopted by the medical community, it can form the basis for change in the current legal concept of death. No statutory change in the law should be necessary since the law treats this question essentially as one of fact to be determined by physicians.

Wrong



Risk averse
clinicians want
certainty & clarity



PROTEXIS PI
7 1/2 R

Legislation Proposed to Recognize Brain Death

LOS ANGELES (PTS) — Proposed legislation recognizing so-called brain death will be drafted here, according to Dept. Dist. Atty. John W. Miner.

Such legislation would be the first in the nation recognizing brain death — death when the brain ceases to function, even though the heart and respiration are continued by artificial means.

to Miner. He said it will not define brain death.

The Los Angeles County district attorney's vital organ transplant committee decided that a clear definition of death is needed now that heart transplants have raised the question as to whether the donor is technically dead or alive at the time his heart is taken.

Variability

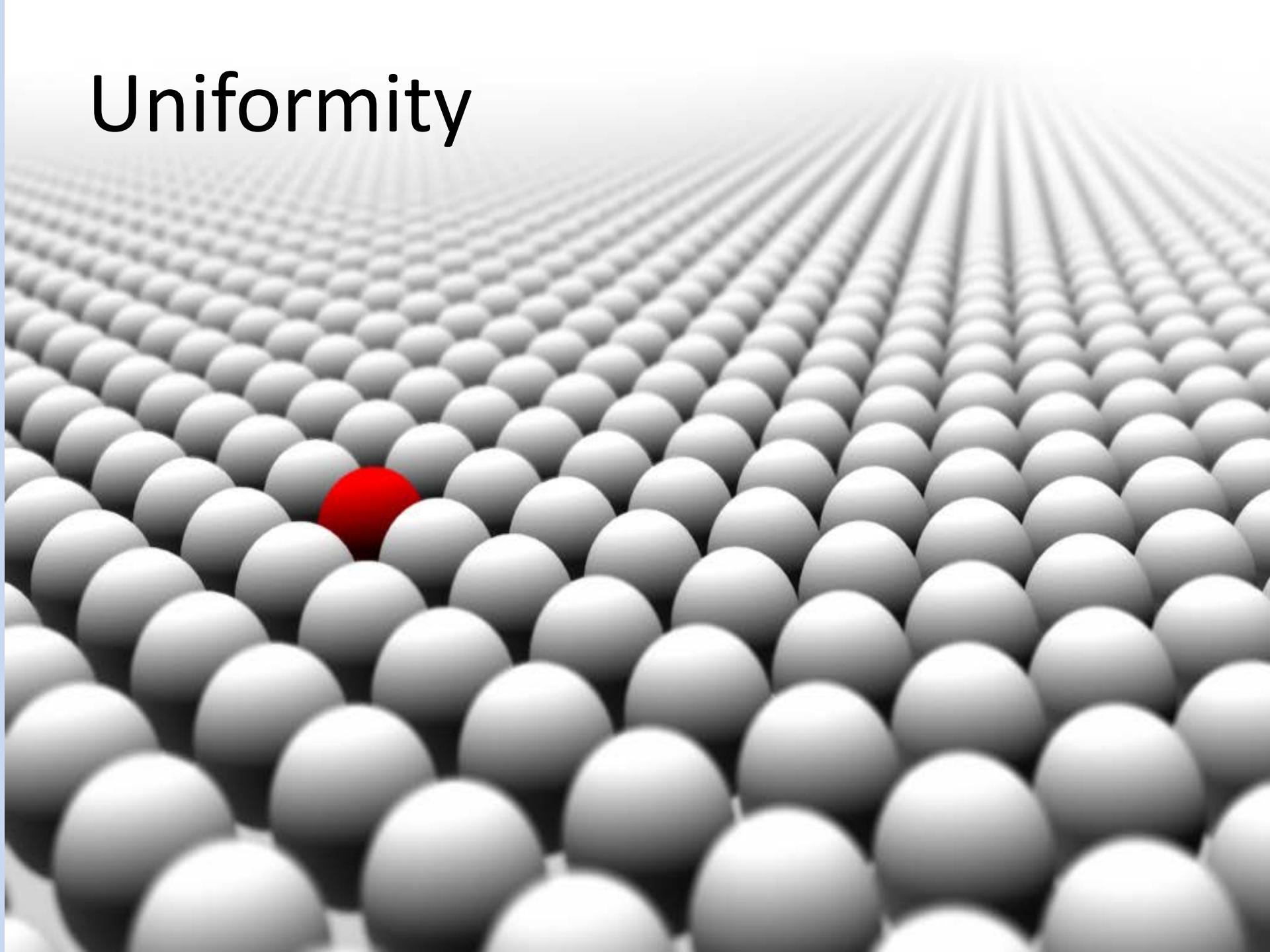


1970s



Lake Geneva, WI

Uniformity



1981

Defining Death

Medical, Legal and
Ethical Issues in the
Determination of Death



President's Commission for the Study of
Ethical Problems in Medicine and
Biomedical and Behavioral Research

U D D A

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

Brain death



Death

Wis. Stat.

146.71

S.B. 327 (1981), Ch. 134

All 56 US
jurisdictions

Legally

settled

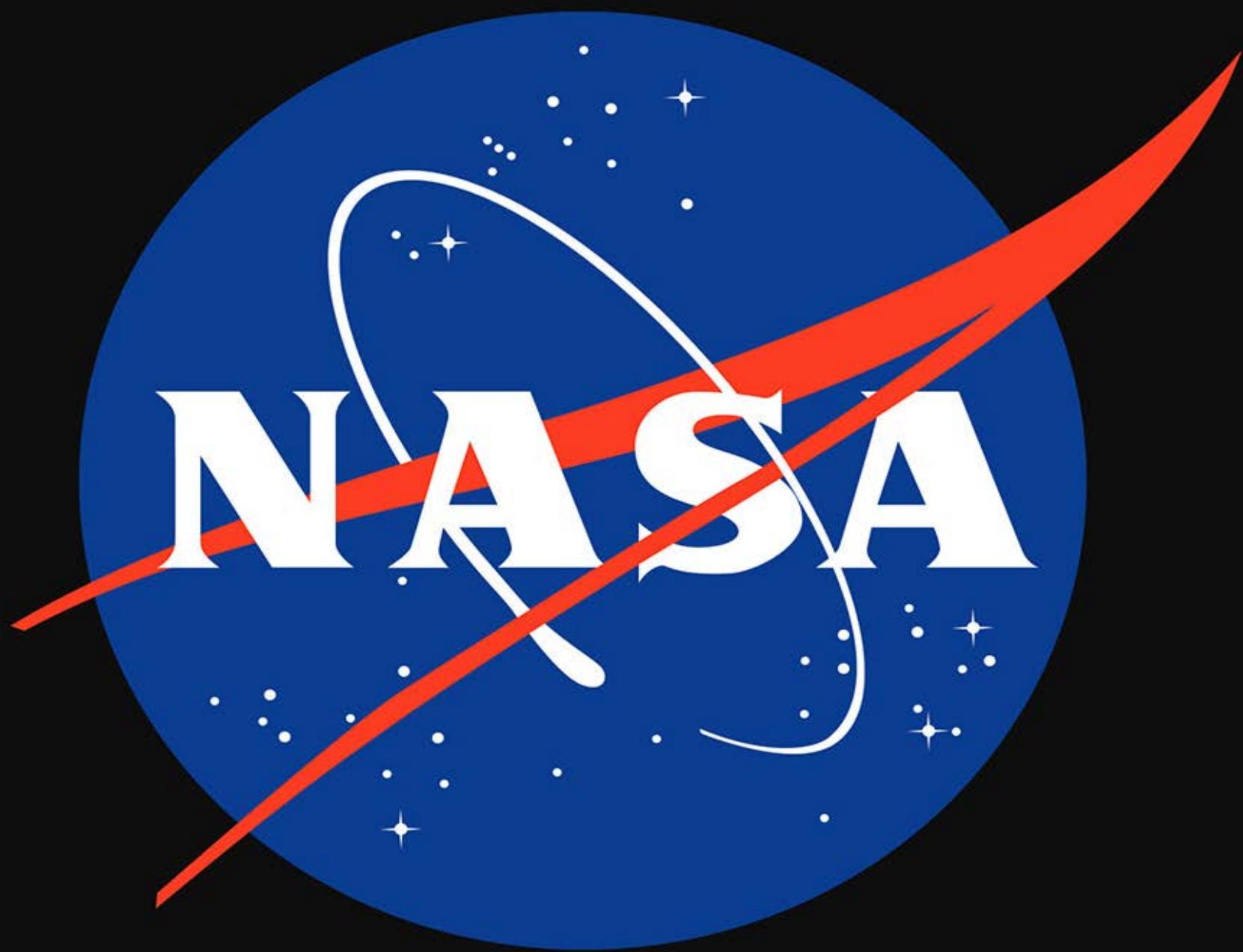
since 1980s

A photograph of a diverse group of business people, including men and women of various ethnicities, all wearing professional attire (suits and ties). They are standing in a circle, holding hands, which symbolizes teamwork, unity, and collaboration. The background is a plain, light-colored wall.

>40 years

Unraveled





MEN WALK ON MOON

ASTRONAUTS LAND ON PLAIN; COLLECT ROCKS, PLANT FLAG

Voice From Moon:
'Eagle Has Landed'

TRANSMITTER: Eagle. Tranquility base here. The Eagle has landed.

RECEIVER: Eagle. Tranquility, we copy you on the ground. You've got a bunch of guys about to eat this. We're looking good. Thanks a lot.

TRANSMITTER: Eagle. Thank you.

RECEIVER: You're looking good, man.

TRANSMITTER: Eagle. A very smooth touchdown.

RECEIVER: Eagle, you are okay for TI. (The first step is to take pictures.) Okay.

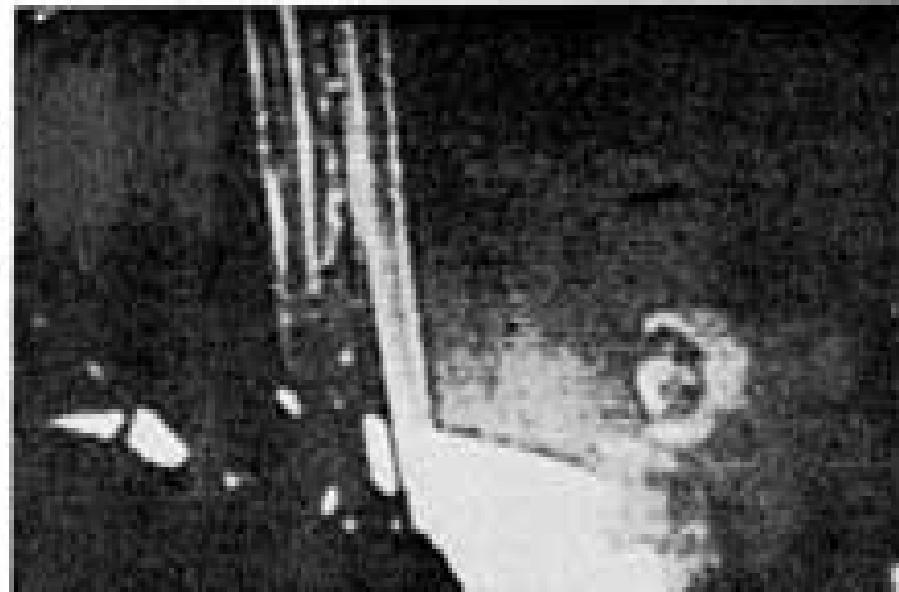
TRANSMITTER: Eagle. Okay, okay for TI.

RECEIVER: Eagle and we are just reading the in.

TRANSMITTER: Eagle. Okay.

RECEIVER: Okay, we are coming and never mind
you do your deal with.

TRANSMITTER: Okay, we have landed Tranquility



A Powdery Surface
Is Closely Explored

By ALLEN SCHAFFER WILDEMAN
Associated Press Writer

NEW YORK, Monday, July 21—Men have landed and walked on the moon.

The Americans, astronauts of Apollo 11, lowered their Eagle. The four-legged lunar module safely and smoothly to the moon's landing powdery at 4:17 a.m. EDT, Eastern Daylight Time.

Neil A. Armstrong, the 38-year-old former commander, walked to earth and the moon's control room here.

"Houston, Tranquility base here. The Eagle has landed."

The first man to reach the moon—Mr. Armstrong and his co-pilot, Col. Edwin E. Aldrin Jr., of the Air Force—brought their ship to rest on a flat, rock-strewn plain less than one-thousandth above of the soil base of Tranquility.

After an initial half hour's pause, Mr. Armstrong opened the landing module's hatch, stepped slowly down the ladder



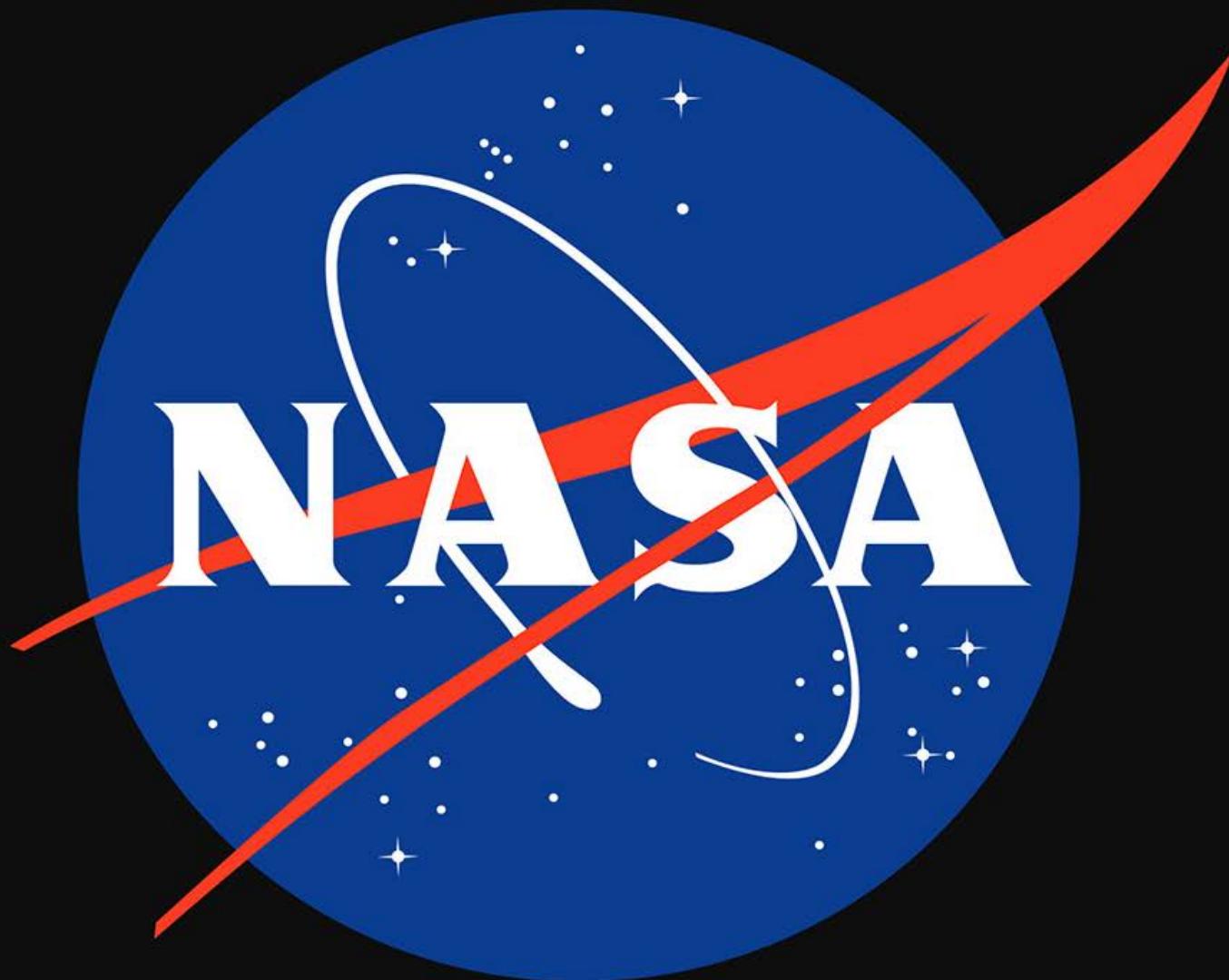
Collected 1000 pounds
moon rocks late 1960s



15498

60015

60





Growing
resistance

More families

dispute BD

Organ support after death by neurologic criteria

Results of a survey of US neurologists

(200)

Ariane Lewis, MD

Nellie Adams, BA

Panayiotis Varelas, MD

PhD

David Greer, MD, MA

Arthur Caplan, PhD

NEUROLOGY

Aug. 2016

50% report

families request

organ support

after BD



San Francisco
General Hospital

Cleveland Clinic

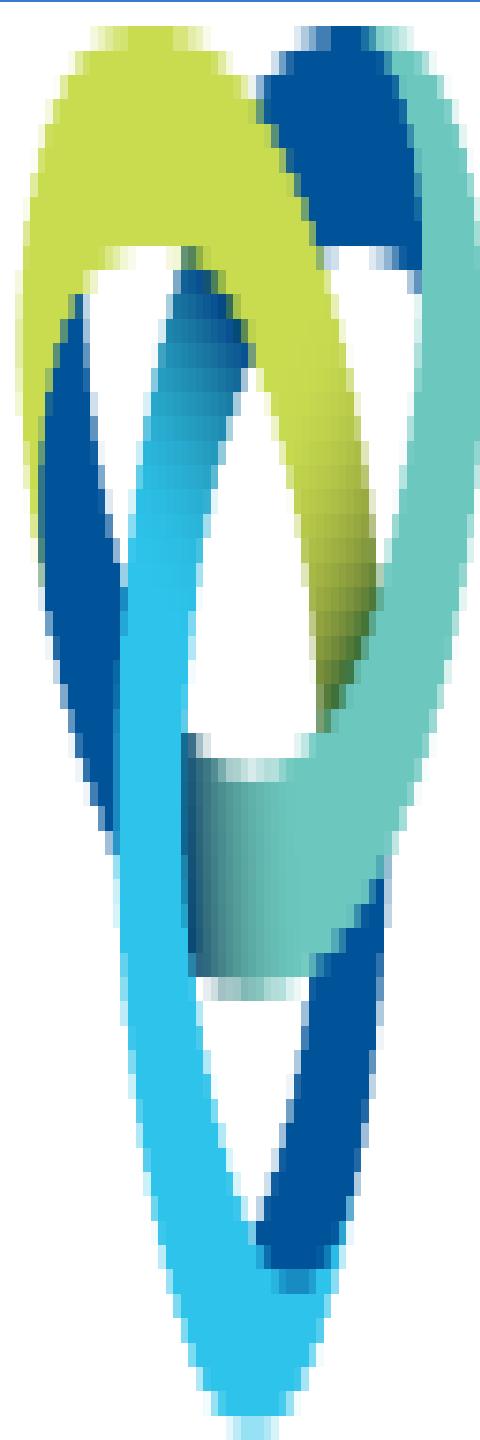
One of America's Top 4 Hospitals

J Clin Ethics (2014) 25(3):222-37

“**reject** this diagnosis”

“**deviate** from
standard procedures”

Not just
USA



T

Health Partners

Conflict: 10%

56 BD cases

2014-2016

More
conflict

Palliative

Care

literature

Steven J. Baumrucker, MD, FAAHPM, FAAFP¹,

Laura Hutchinson, ANP¹, Matt Stolick, PhD¹,

Gregory T. Carter, MD, MS¹, Rev. Karrie Oertli, DMin²,

Leslie Stillin Schmidt, MSSW, MA¹, and Russell W. Adkins, JD¹



Ethics Series

Addressing Religious or Cultural Opposition to Brain Death Diagnosis

Donald O. Johnson, MS, RN O Christine G. Westphal, MSN, NP, ACNS, ACHPN, FPCN

Ethical Issues in Palliative Care

Series Editors: Muriel Gillick, MD, and Gregg K. VandeKieft, MD, MA

Brain Death: Ethical Challenges to Palliative Care Concepts of Family Care

Solomon Liao, MD and Shiho Ito, MD

The Death Debate: Penumbra Conundrum

Robert F. Johnson, MD, MEd¹ 

American Journal of Hospice
& Palliative Medicine®

2018, Vol. 35(2) 1473-1476

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DOI: [10.1177/1049909118778288](https://doi.org/10.1177/1049909118778288)

journals.sagepub.com/home/ajh



Many cases

to court

2016 -

2018



Why?

1

Diagnostic confusion

“looks”
alive



“Since there is a
heartbeat (and
he is **warm**),
he is alive.”

“He’s in a **coma**.”

“With rehab/time
he’ll get better.”



2

Linguistic Confusion

“Brain dead”

implies not

really dead

“heart dead”

Brain-Dead Canadian Woman Dies After Giving Birth to Boy

By

Friday, February 23, 2007

Health

WORLD U.S. N.Y./REGION BUSINESS TECHNOLOGY SCIENCE HEALTH SPORTS

FITNESS & NUTRITION HEALTH CARE POLICY MEDICINE

Brain-Dead Florida Girl Will Be Sent Home on Life Support

Published: February 19, 1994



“She is
brain dead
and being
kept alive..”

Daily Mail



3

Mistrust



FIRST, DO NO HARM

TO ERR IS HUMAN

BUILDING A SAFER HEALTH SYSTEM

INSTITUTE OF MEDICINE

ANALYSIS



CrossMark
click for updates

Medical error—the third leading cause of death in the US

Heart disease 600,000

Cancer 600,000

Medical error 400,000

COPD 140,000

Stroke 130,000

Accidents 120,000

Brain death
medical
error

Arizona College Student Bounces Back From the Dead After Nearly Giving Organs

May 10, 2019

By CLICAN DONALD DEON JAMES on GOOD MORNING AMERICA





Close call in death ruling of potential organ donor

John Foster at Fresno Community
(April 12, 2007)

St. Joe's "dead" patient awoke as docs prepared to remove organs



By John O'Brien

on July 27, 2013 at 2:00 AM, updated July 28, 2013

syracuse.com

Local news | Breaking news | Sports | Opinion



THE DOCTOR WHO IS SAVING LIVES AGAINST ALL ODDS

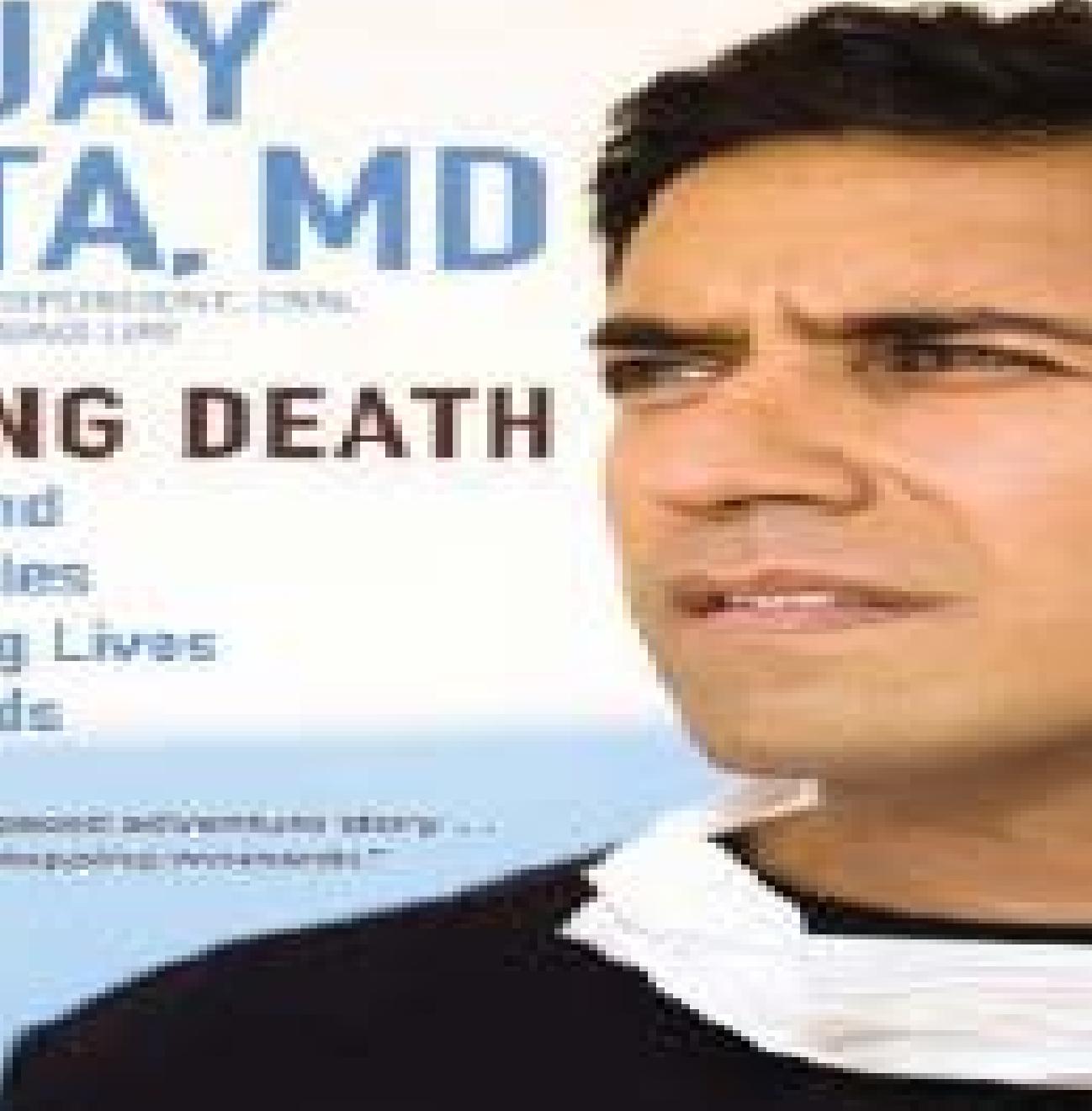
SANJAY GUPTA, MD

DOCTOR SANJAY GUPTA IS A NEW YORK TIMES BEST-SELLING AUTHOR
AND A LEADING EXPERT IN MEDICAL NEWS

CHEATING DEATH

The Doctors and
Medical Miracles
that Are Saving Lives
Against All Odds

"This book is a must-read for anyone who wants to learn more about the medical profession and the people who work in it. It's a great reminder that there are still good doctors out there, and that they are making a difference in people's lives every day."



“They were declared
brain dead. It was
written in their
charts . . . here they
are sitting up talking
to me”

Negligent errors

More
culpable
errors

Hootan Roozrokh

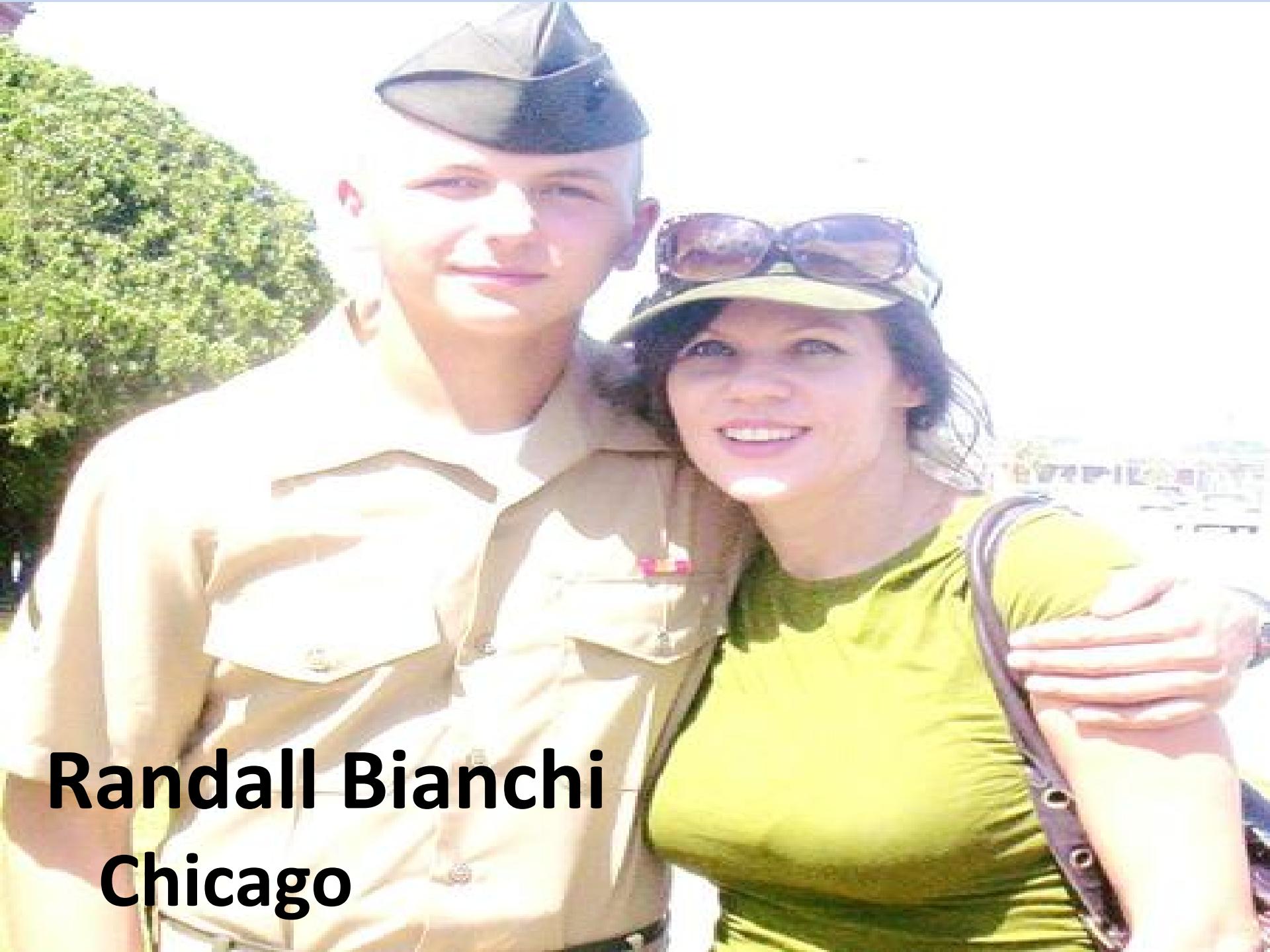




post-gazette.com
Pittsburgh Post-Gazette

\$1.2 million settlement in 'organ harvest' case

November 19, 2012 12:00 AM



Randall Bianchi
Chicago

Mistrust

Confusion

Diagnostic

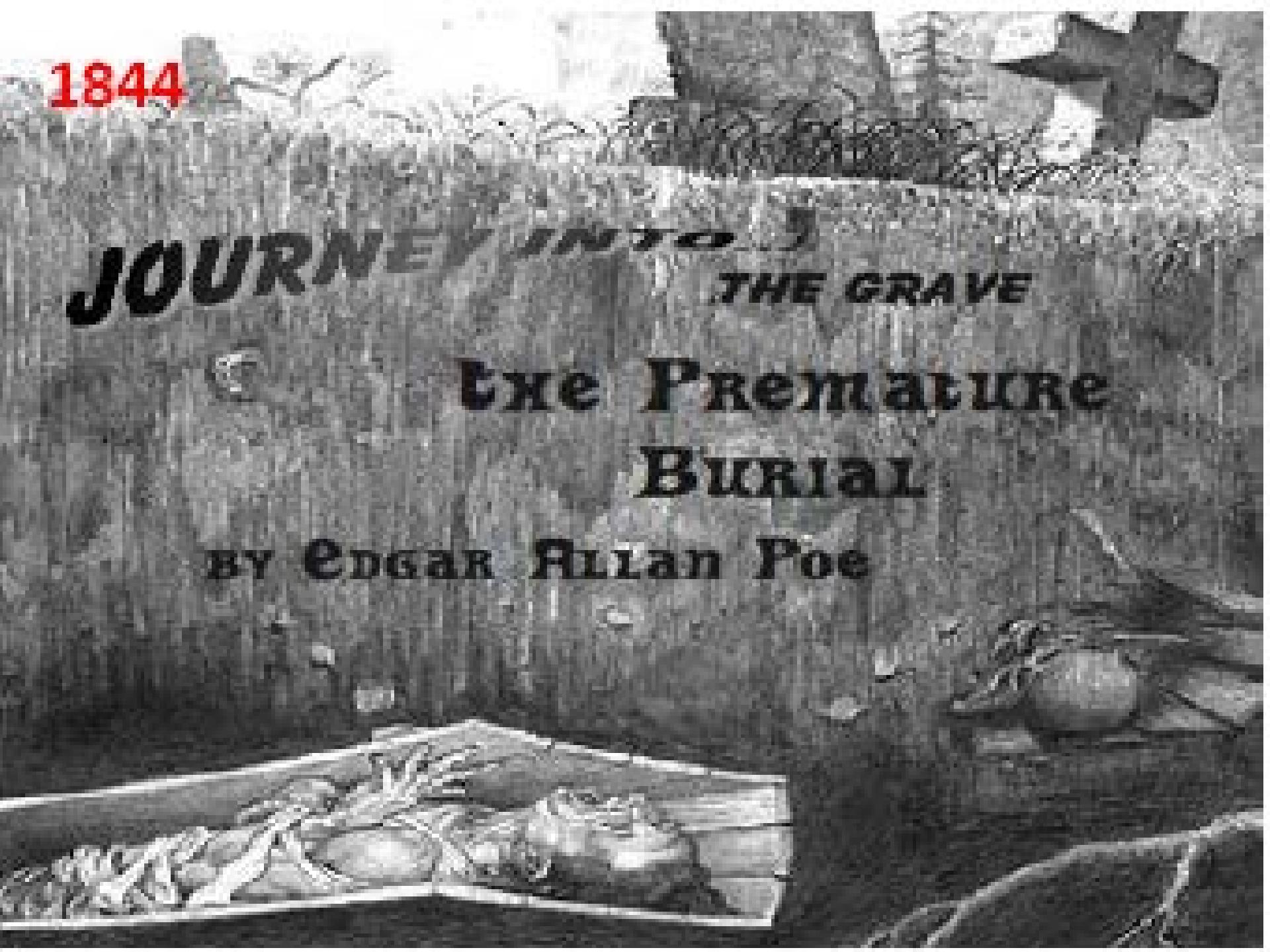
Linguistic

4

Taphophobia

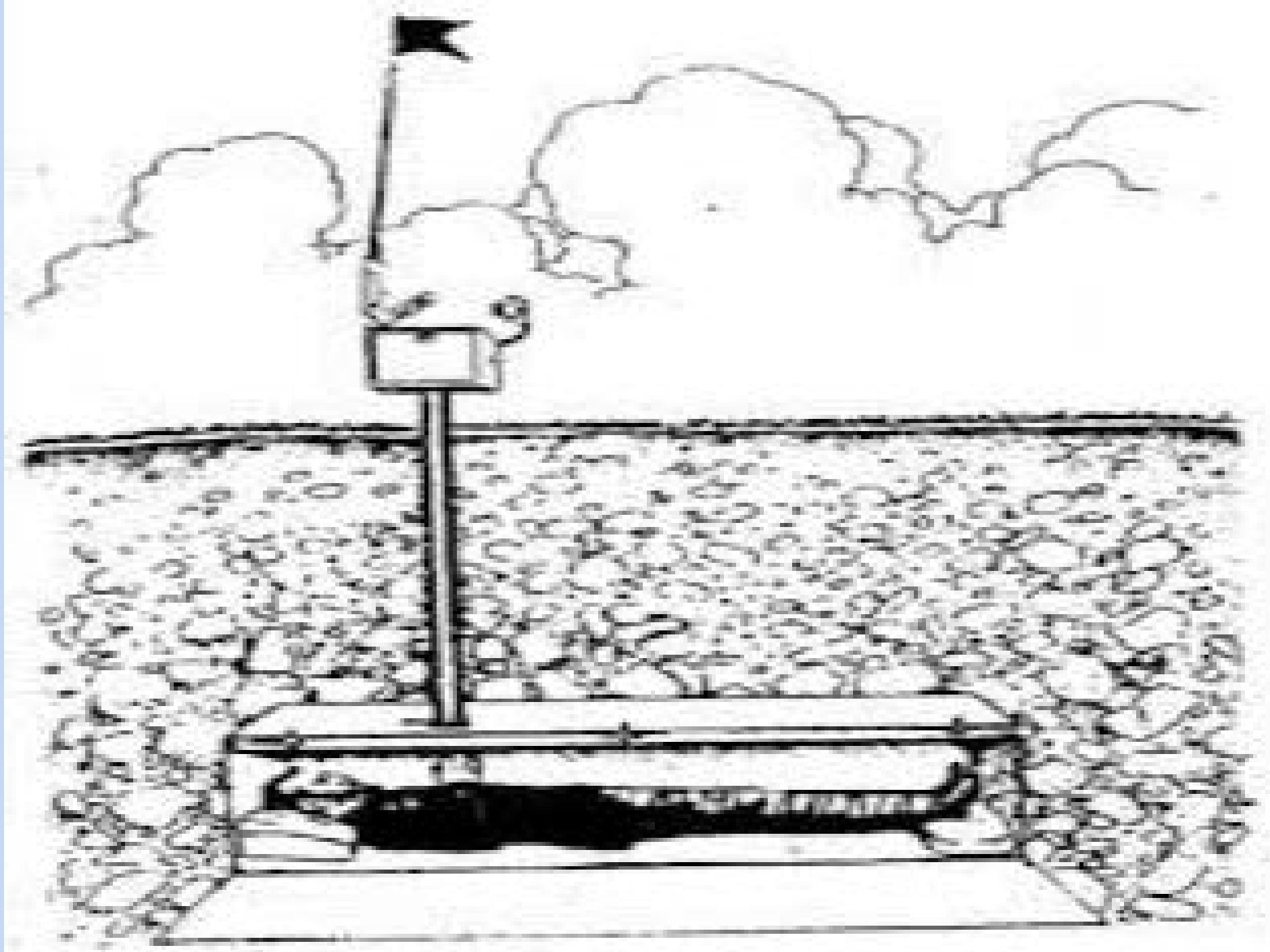
1844

JOURNEY INTO
THE GRAVE
The Premature
Burial
BY EDGAR ALLAN POE









SAVED
BY THE
BEE!

HT: Seema Shah

Taphophobia

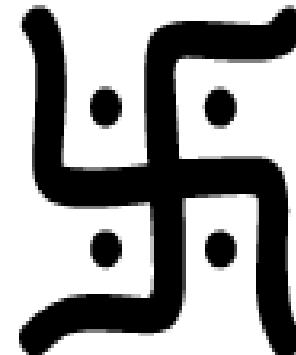
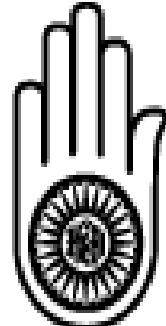
people want

to be **sure**

5



Presbyterian (Ahimsa Hand) Jainism



Hinduism (Swastika)



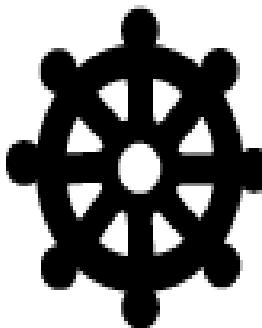
Hinduism
Pranava



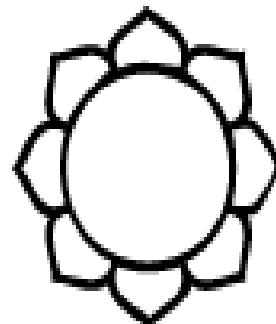
Ayyavazhi
Lotus Carrying Namam



Islam (Muslim)



Buddhism
Wheel of Dharma



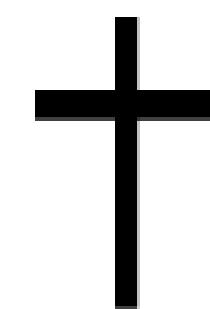
Buddhism
Lotus Flower



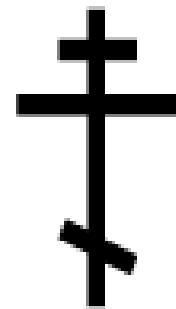
Judaism
Menorah



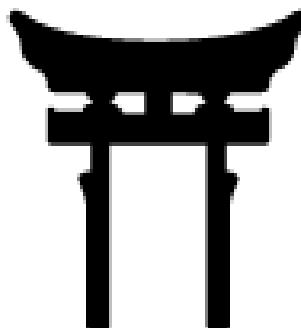
Trident
of Shiva



Christianity
Latin cross



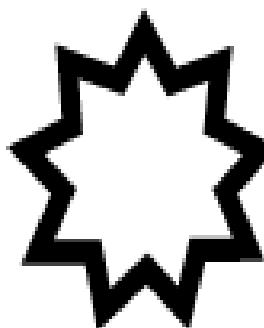
Christianity
Orthodox cross



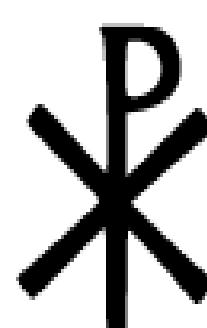
Shinto (Japan)



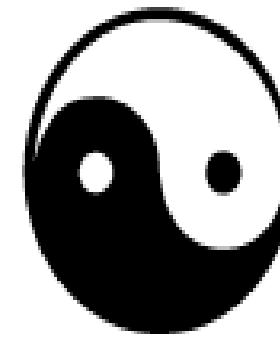
Judaism
Star of David



Bahai Faith
Nine Pointed Star



Christianity
Chi Rho



Taoism (Daoism)
Yin and yang



Sikhism

6

Miracles



57%

Trauma Death

Views of the Public and Trauma Professionals on Death and Dying From Injuries

Lenworth M. Jacobs, MD, MPH; Karyl Burns, RN, PhD; Barbara Bennett Jacobs, RN, MPH, PhD, CHPN

Arch Surg. 2008;143(8):730-735

7

More
vulnerable

Controversies in the Determination of Death

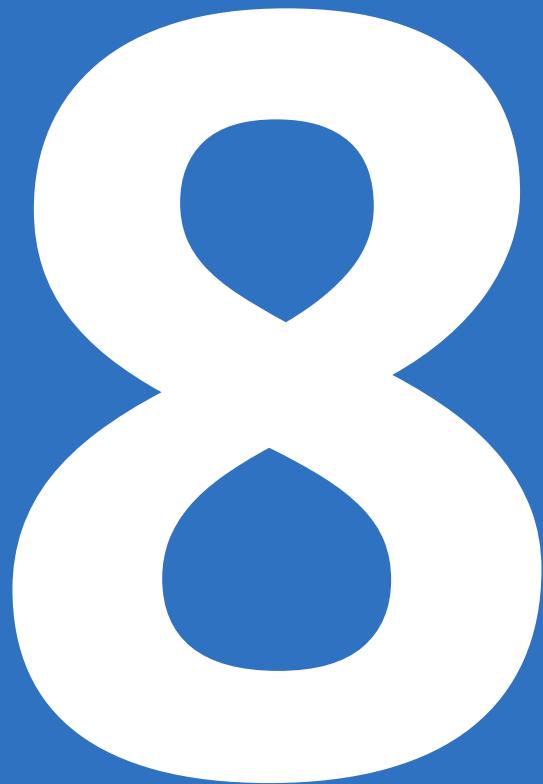
A White Paper by
the President's Council on Bioethics



December 2008



Jahi McMath



More
organized
opposition



JACK PHILLIPS

PLANNED PARENTHOOD

CHURCH ALLIANCE



REQUEST LEGAL HELP

We're Defending You

Request Legal Help

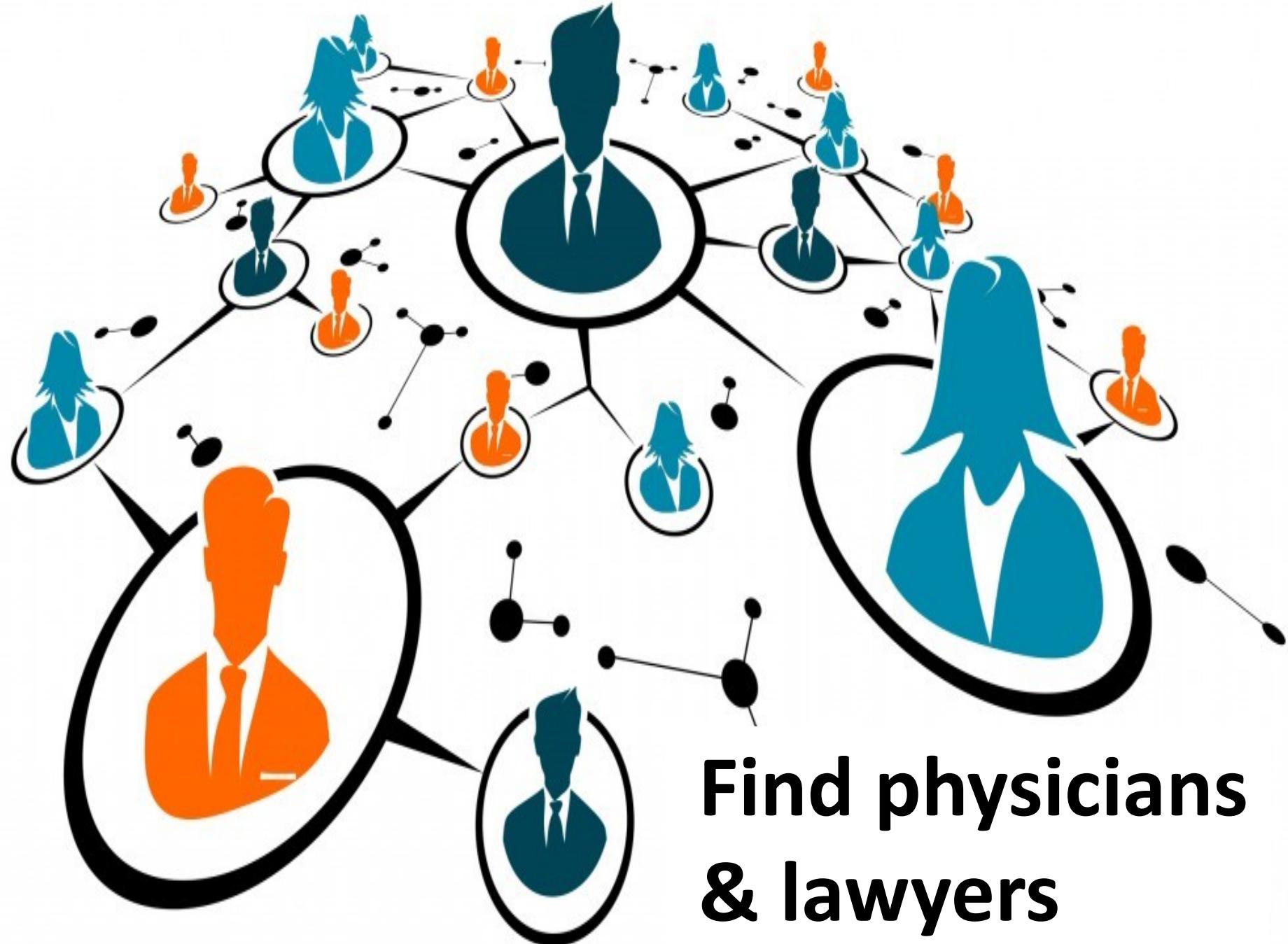


PACIFIC JUSTICE INSTITUTE

Defending Religious Freedom, Parental Rights, And Other Civil Liberties Without Charge

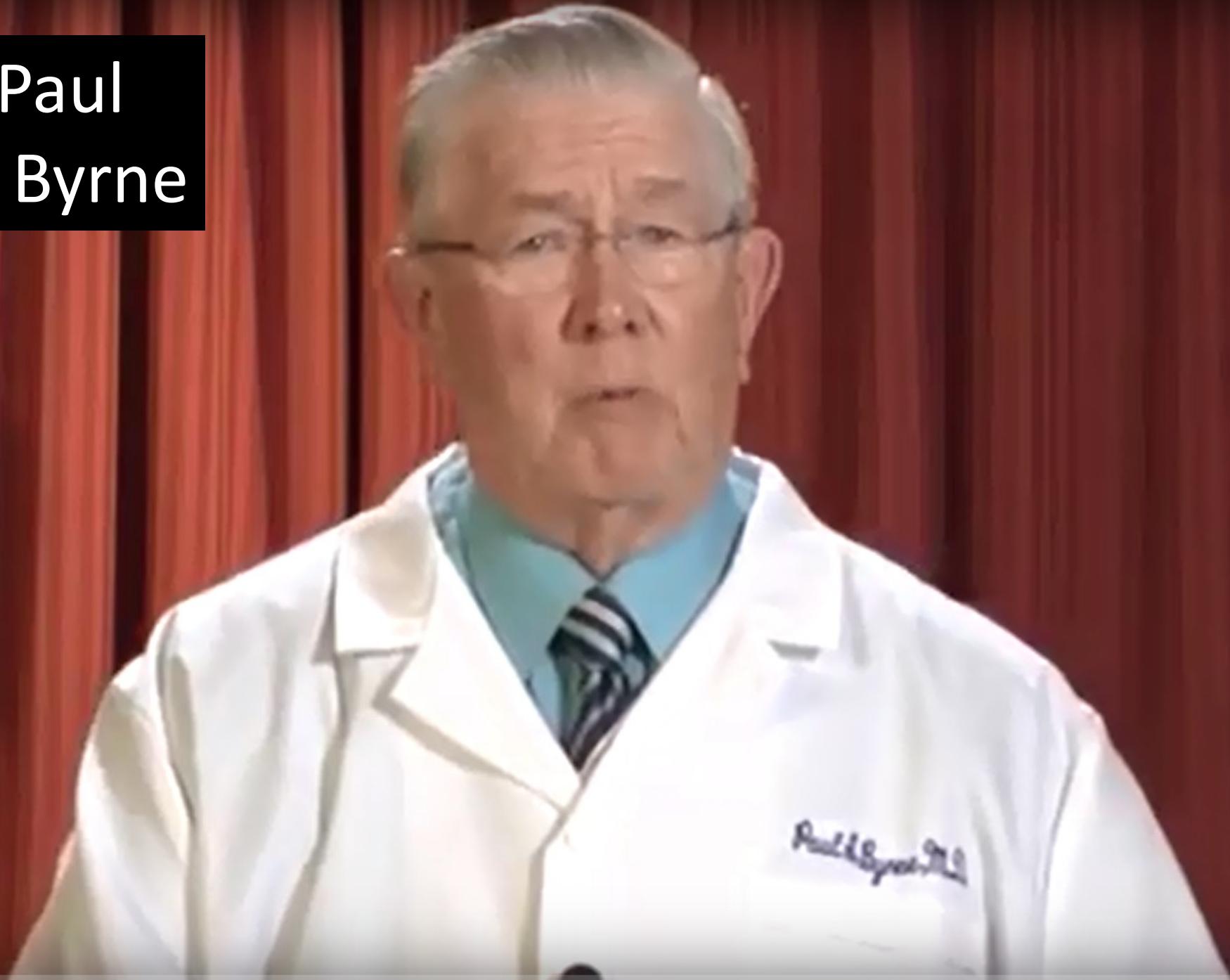


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Dolan Law Firm

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More
crowdfund



Please help to save Charlie's life

Share

Tweet

104K shares

help us to save our baby boy!

£1,195,224 of £1.2M goal

Raised by 78,106 people in 2 months

Donate Now

Share on Facebook

Created 30 January 2017



Connie Yates



Medical

Bedfont Ward, ENG

Recent Donations

£10

Trisha Greer

Now

Share

GoFundMe

Consequences of resistance



9+ months

\$10,000
per day

Harm
innocent
3rd parties

1



2



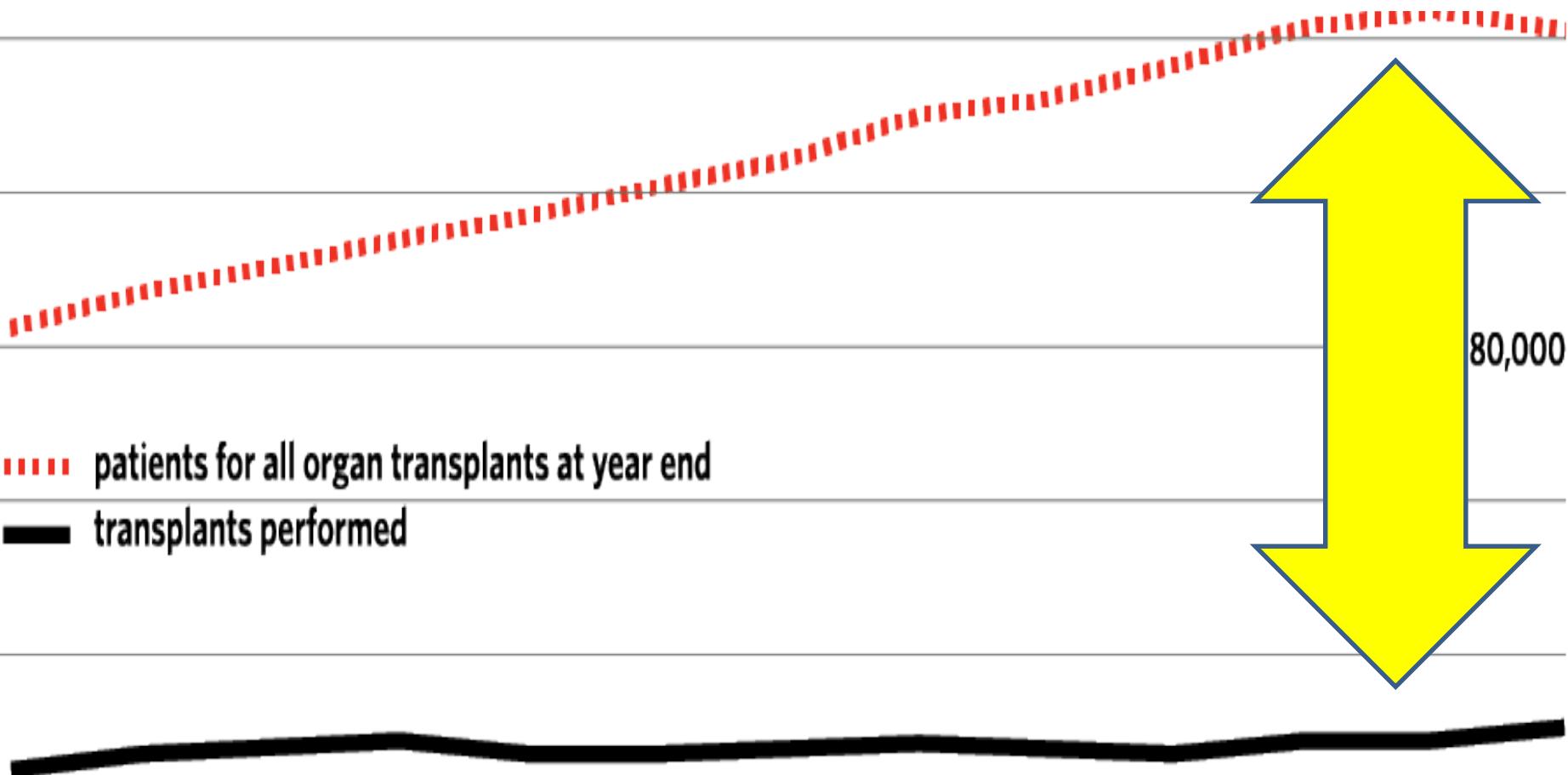
UNITED NETWORK FOR ORGAN SHARING

2018: More transplants than ever



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

115,000



(SOURCE: ORGAN PROCUREMENT AND TRANSPLANT NETWORK)

2003

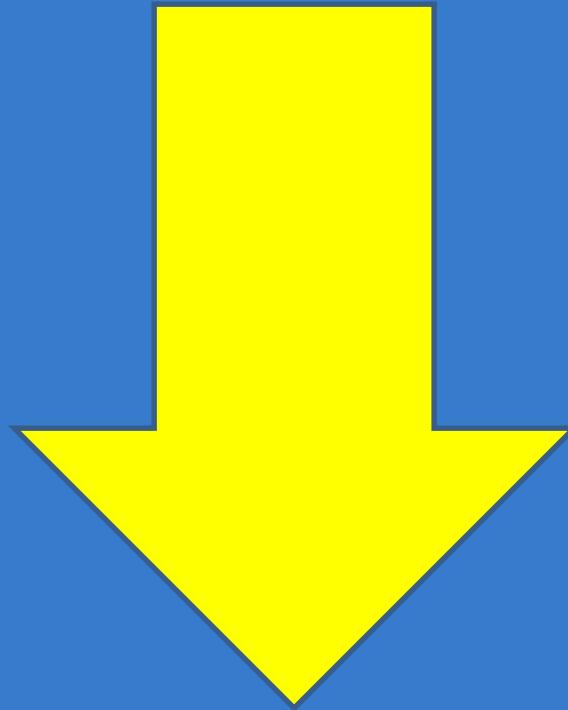
35,000

2015

5

Types of
dispute

Least



Most serious

Attack

1 of 5

Confusion

Mistrust



Lots of these cases

Just 1

example



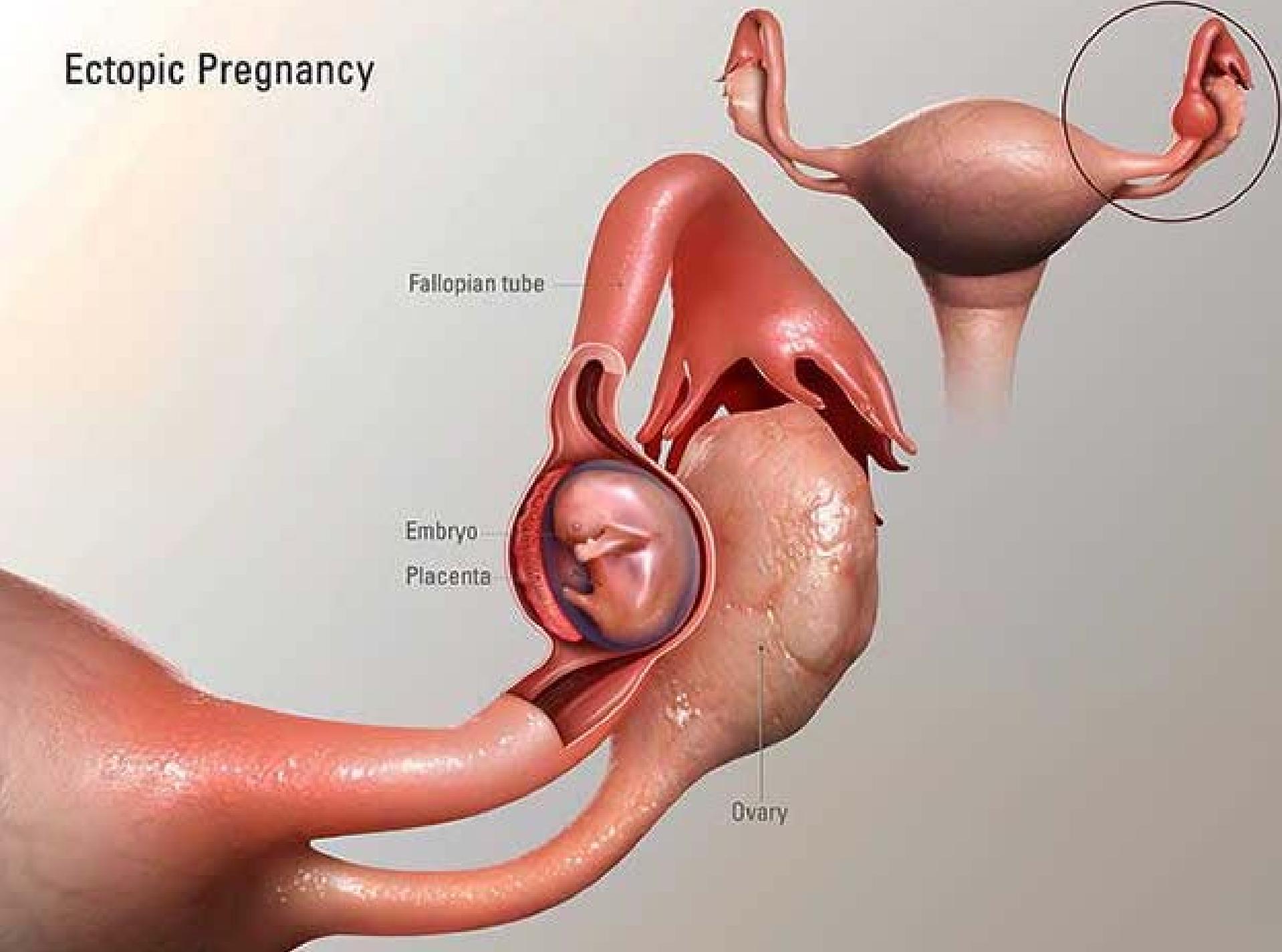
AHMCA ANAHEIM REGIONAL
MEDICAL CENTER





Lisa Avila

Ectopic Pregnancy





Welch Allyn
Model 9800
Handheld Diagnostic
Stethoscope

Model 9800
Handheld Diagnostic
Stethoscope

Model 9800
Handheld Diagnostic
Stethoscope

“No”



FOX 11

ROBERT AVILA
FATHER

Wrong before

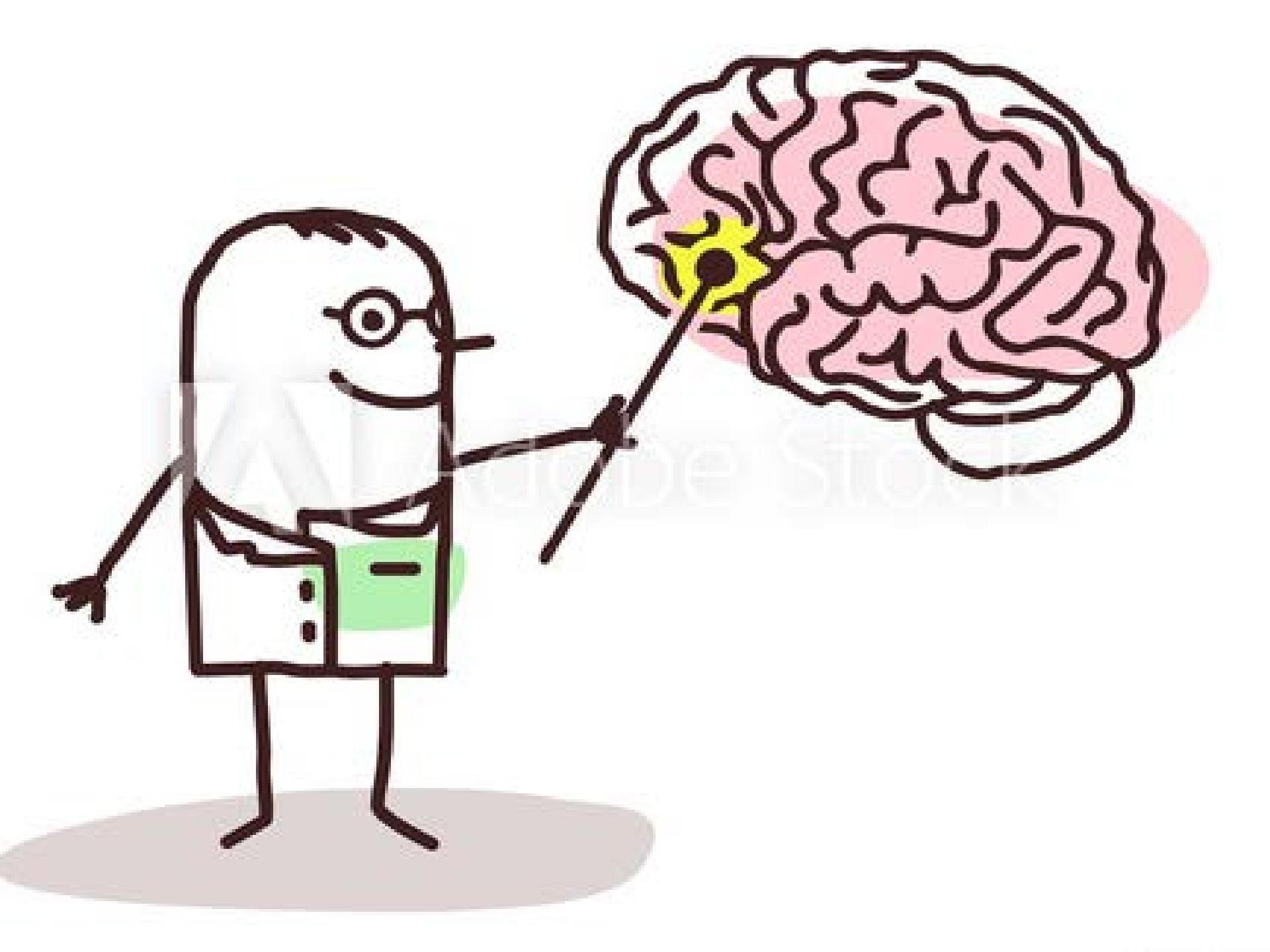
Wrong now



SUPERIOR COURT
OF CALIFORNIA

COUNTY OF ORANGE

Injunction against
removing ventilator



“okay”

5:00 54°

2

cbsLA



Law buys time - to accept or confirm

Other tools

Do not use
the term
“brain death”

Brain Death

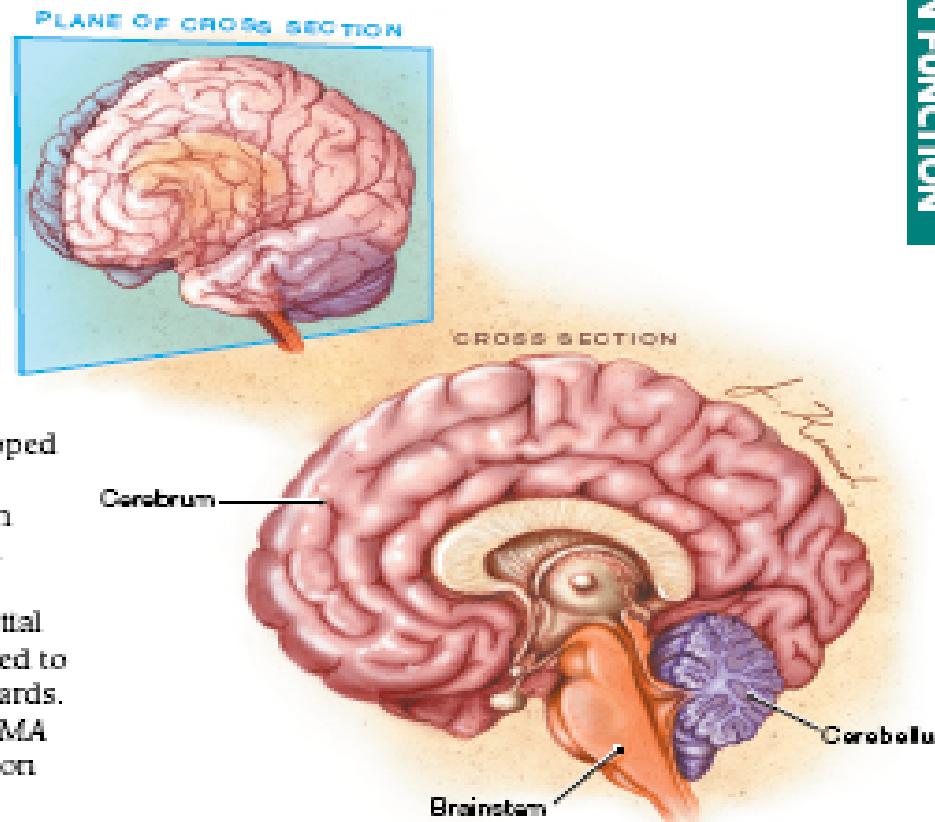
A person dies when brain function ceases, the heart stops beating, and breathing and blood circulation cease. Because life-support techniques have become so advanced, it is possible that even in the face of fatal injury or unrecoverable illness, the heart can be kept beating with medication, and respiration (breathing) can be artificially performed with a ventilator. The concept of brain death developed in response to these advanced medical techniques that can maintain some bodily functions. Brain death, as understood in US law and medical practice, occurs when there is no function of the entire brain. The brainstem is the area of the brain that controls breathing and circulation and therefore controls essential life functions. When the brain, including the brainstem, has ceased to function, the individual is truly dead by medical and legal standards. Thus, brain death is real death. The March 18, 2009, issue of JAMA includes an article about brain death. This Patient Page is based on one published in the May 14, 2008, issue of JAMA.

CLINICAL CRITERIA FOR BRAIN DEATH

- No response to any stimulus—no movement, withdrawal, grimace, or blinking
- No breathing efforts when taken off the ventilator (the apnea test)
- Pupils dilated and not responsive to light
- No gag reflex, no corneal reflex (blinking when the surface of the eye is touched), and absence of other specific reflexes

TESTING

- Computed tomography (CT) scans of the brain may show abnormalities such as bleeding (hemorrhage), massive stroke, brain injury, or severe brain swelling (edema).
- Electroencephalography (EEG) records electrical brain activity. If brain death is present, the EEG will show no activity.

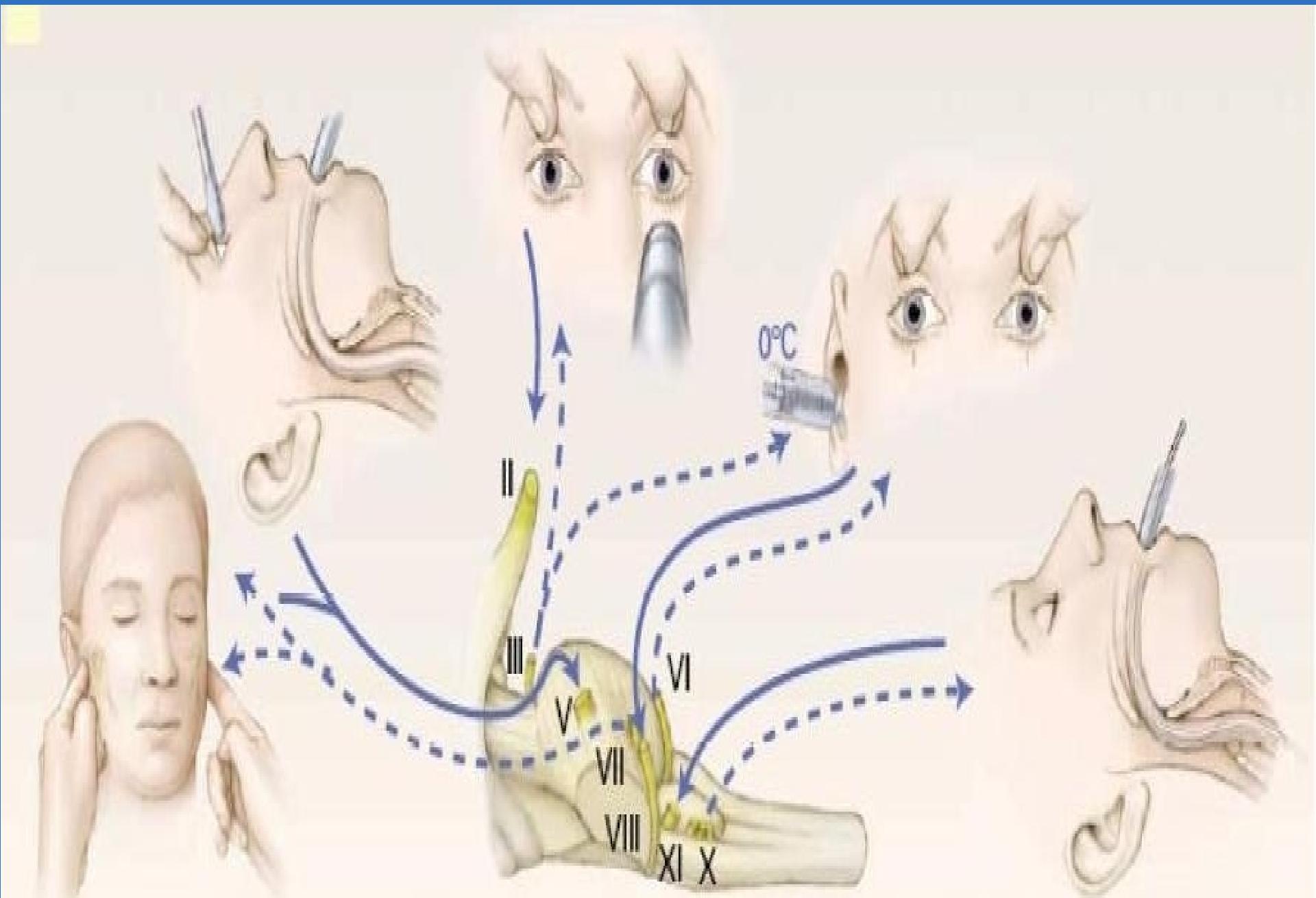


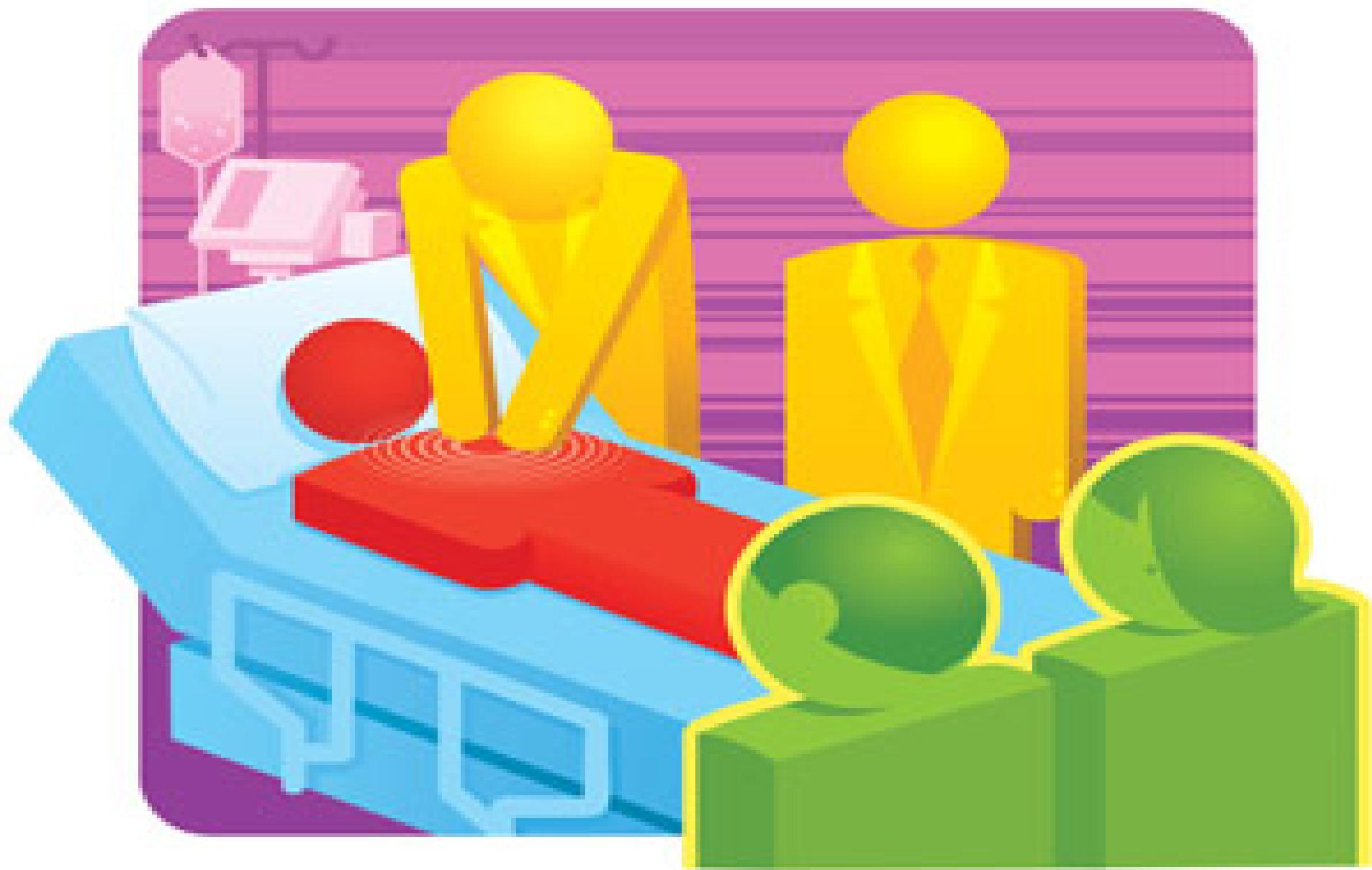
FOR MORE INFORMATION

- National Institute of Neurological Disorders and Stroke www.ninds.nih.gov
- American Academy of Neurology www.aan.com
- United Network for Organ Sharing www.unos.org

INFORM YOURSELF

To find this and previous JAMA





Tawil I et al, "Family presence during brain death evaluation: a randomized controlled trial" - Crit Care Med. 2014 Apr;42(4):934-42

That's
1st attack
on BD

Attack

2 of 5

Want
religious
exemption



“[D]eath . . . shall not

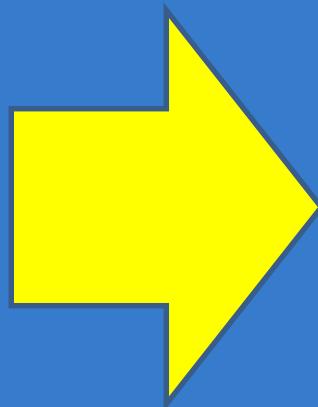
be declared . . .

neurological criteria . .

. violate . . . personal

religious beliefs”

Religious
objection



No
death
by BD

Pt may

satisfy

BD criteria

BUT

May not
declare
death

Until
death by
CP criteria

Rejected

everywhere

outside NJ

Still

asked for

CHOP had 2 cases summer 2018



Areen Chakrabarti



FOX 29

10:06 64°

Jayden Auyeing



FOX 29

5:03 63°



River Styx in Hades, border between underworld and world of the living



Motl Brody (DC)



Shahida Virk (Mich.)





Cho Fook Cheng (Mass)

AMENDED IN ASSEMBLY APRIL 6, 1987

CALIFORNIA LEGISLATURE—1987-88 REGULAR SESSION

ASSEMBLY BILL

No. 1390

Introduced by Assembly Member Katz

March 4, 1987

California
rejected legislation

A close-up, color portrait of Mario Cuomo. He is a middle-aged man with dark, wavy hair, looking directly at the camera with a slight smile. He is wearing a dark suit jacket, a white collared shirt, and a red and blue striped tie. The background is a solid, muted blue.

Mario
Cuomo

CA

MA

DC

NY

MI

PA





Shalom Ouanounou

Rejected

everywhere

outside NJ

but

New
cases

1





Taquisha McKitty

Apostolic Pentecostal



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



Dec. 12, 2018

2





Israel Stinson

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Jonee Fonseca, an individual parent and guardian of Israel Stinson, a minor,

Plaintiff:

10

Karen Smith, M.D. in her official capacity as Director of the California Department of Public Health; and 2 through 10, inclusive,

Defendant.

) Case No.: 2:16-cv-00889-KJM-EFB
)
)
)
) Second Amended Complaint for
) Equitable Relief
)
)
)
) REQUEST FOR JURY TRIAL
)

Suing State of California

“Plaintiffs are
Christians with firm
religious beliefs . . .

heart is beating . . .
is alive.”

“removal of CP support

... unconstitutional ...

interferes with ...

freedom of religion ..

. first amendment”



UNITED STATES COURTS for the NINTH CIRCUIT

Oral arg. Jan. 14, 2019

3



**NEW YORK STATE
DEPARTMENT OF HEALTH**

**GUIDELINES FOR DETERMINING
BRAIN DEATH**

DECEMBER 2005

“Hospitals must establish **written procedures** for reasonable accommodation”

Free choice

24 hours

BUT

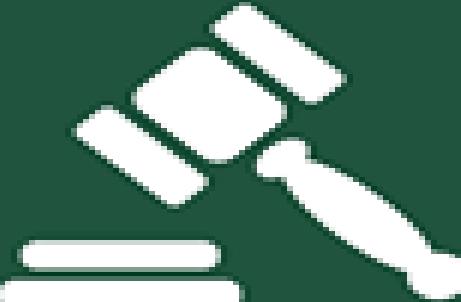


NewYork-Presbyterian

AMAZING
THINGS
ARE
HAPPENING
HERE

May see
more of
these cases

**LIFE =
LEGAL
DEFENSE
FOUNDATION**



That's
2nd attack
on BD

Attack

3 of 5

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

Some try to

prevent

BD diagnosis

Why?

this strategy

Clinician
duties

after BD

Limited

American College of Physicians Ethics Manual

Sixth Edition

Lols Snyder, JD, for the American College of Physicians Ethics, Professionalism, and Human Rights Committee*

“After a patient . . . brain
dead . . . medical support
should be **discontinued.**”

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 . . .”

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

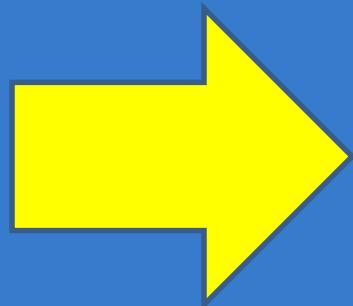
“all medical
interventions
should be
withdrawn.”

Consent

not

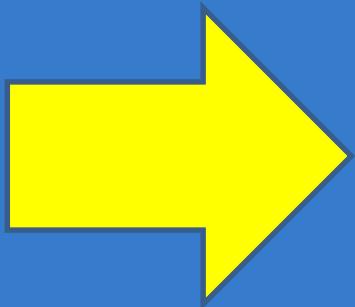
required

Dead



Not a
patient

Not a
patient



No Tx
duty



OFF

Bright line rule



No post-BD

treatment rights

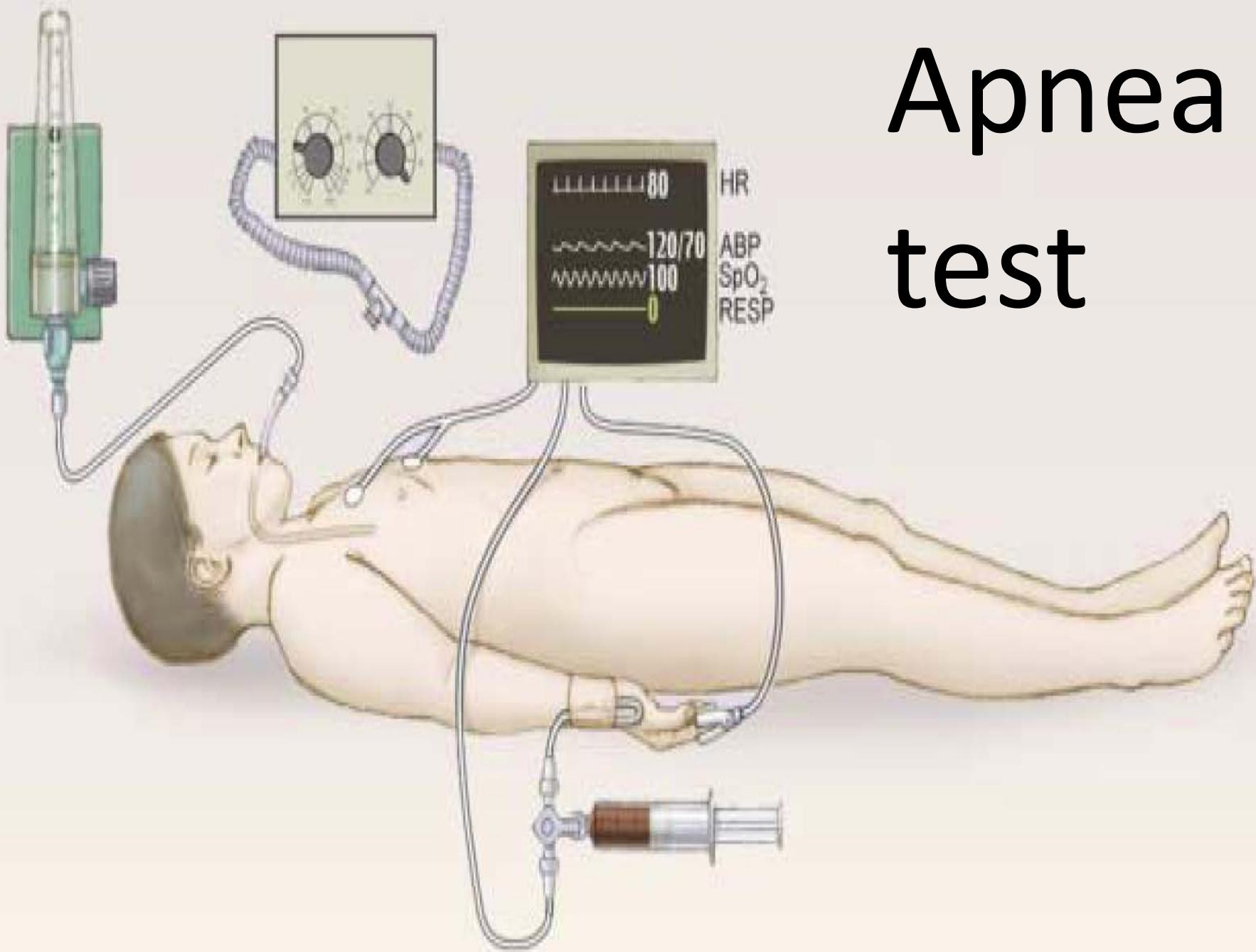
So,

Focus on

pre-BD

rights

Apnea test



Final

confirmatory test

Evidence-based guideline update: Determining brain death in adults

Report of the Quality Standards Subcommittee of the American
Academy of Neurology



Eelco F.M. Wijdicks,
MD, PhD

ABSTRACT

Objective: To provide an update of the 1995 American Academy of Neurology guideline with regard



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



BUT

More family

refusals



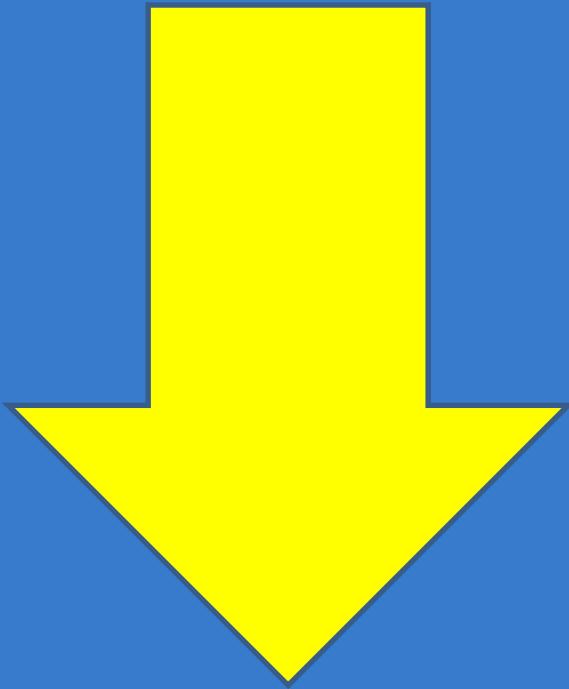
Almost all pediatric

Parental
refusals

A close-up photograph of a person's hand held palm-up. The word "NO" is written in dark ink across the center of the palm. In the background, a woman with blonde hair and blue eyes is smiling, looking directly at the camera. She is wearing a blue shirt. The background is dark and out of focus.

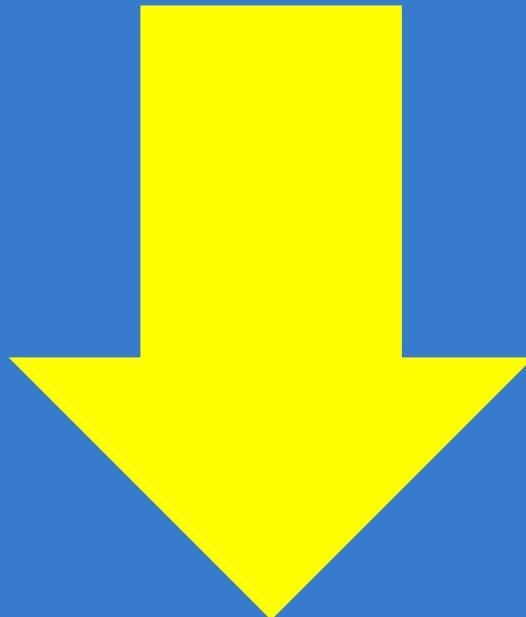
NO

No apnea test



No BD

No BD



Treatment duties
continue until CP

Practically, same
as NJ religious
exemption

Opt out

BD

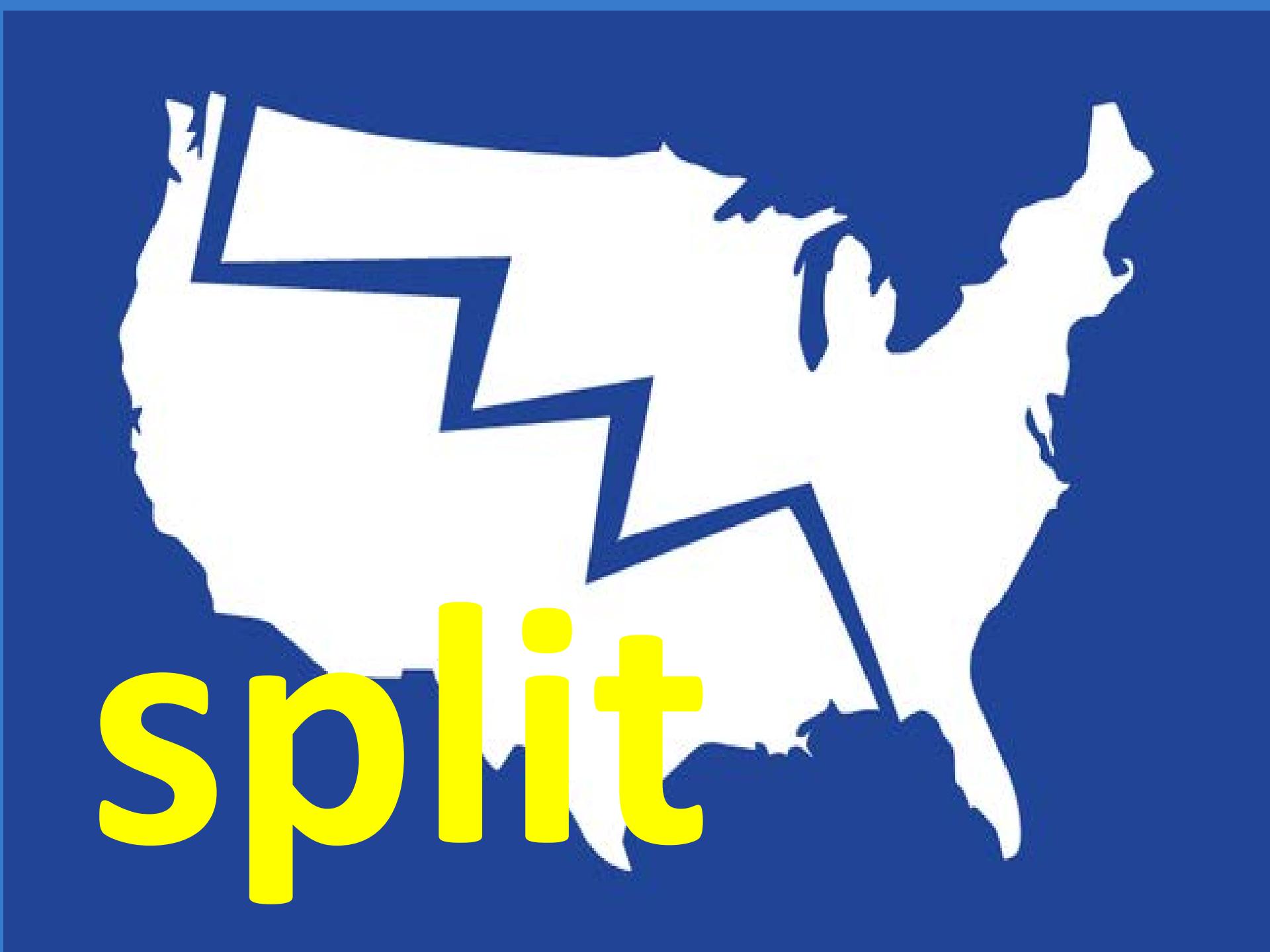
No apnea test →

ancillary tests

But same
consent
question

Must clinicians
honor the
refusal?

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



split

Yes

Allen

Callaway

Billings, Montana





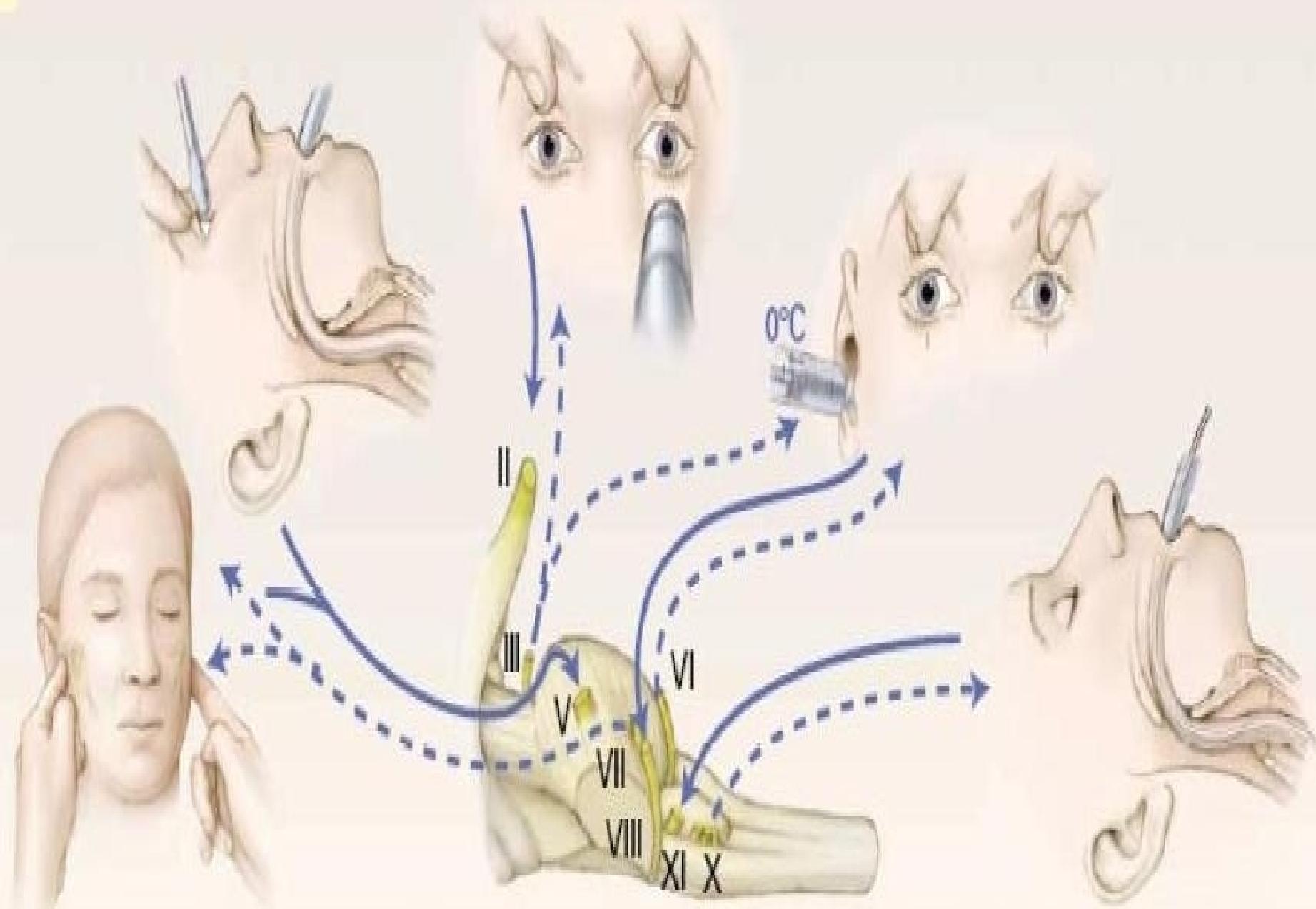
6-year-old
“Drowned” July 22, 2016



St. Vincent

HEALTHCARE

SCL Health





Mom:
“no”

MONTANA NINTH JUDICIAL DISTRICT COURT, PONDERA COUNTY

IN THE MATTER OF THE
GUARDIANSHIP OF A.C.,

FILED

SER 26 2016

Laurie L. Zimmerman
BY LAURIE L. ZIMMERMAN
CLERK OF DISTRICT COURT
PONDERA COUNTY, MONTANA
By _____ DEPUTY

a minor.

Cause No. DG-16-08

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

“no”

“request . . .

permitting . . .

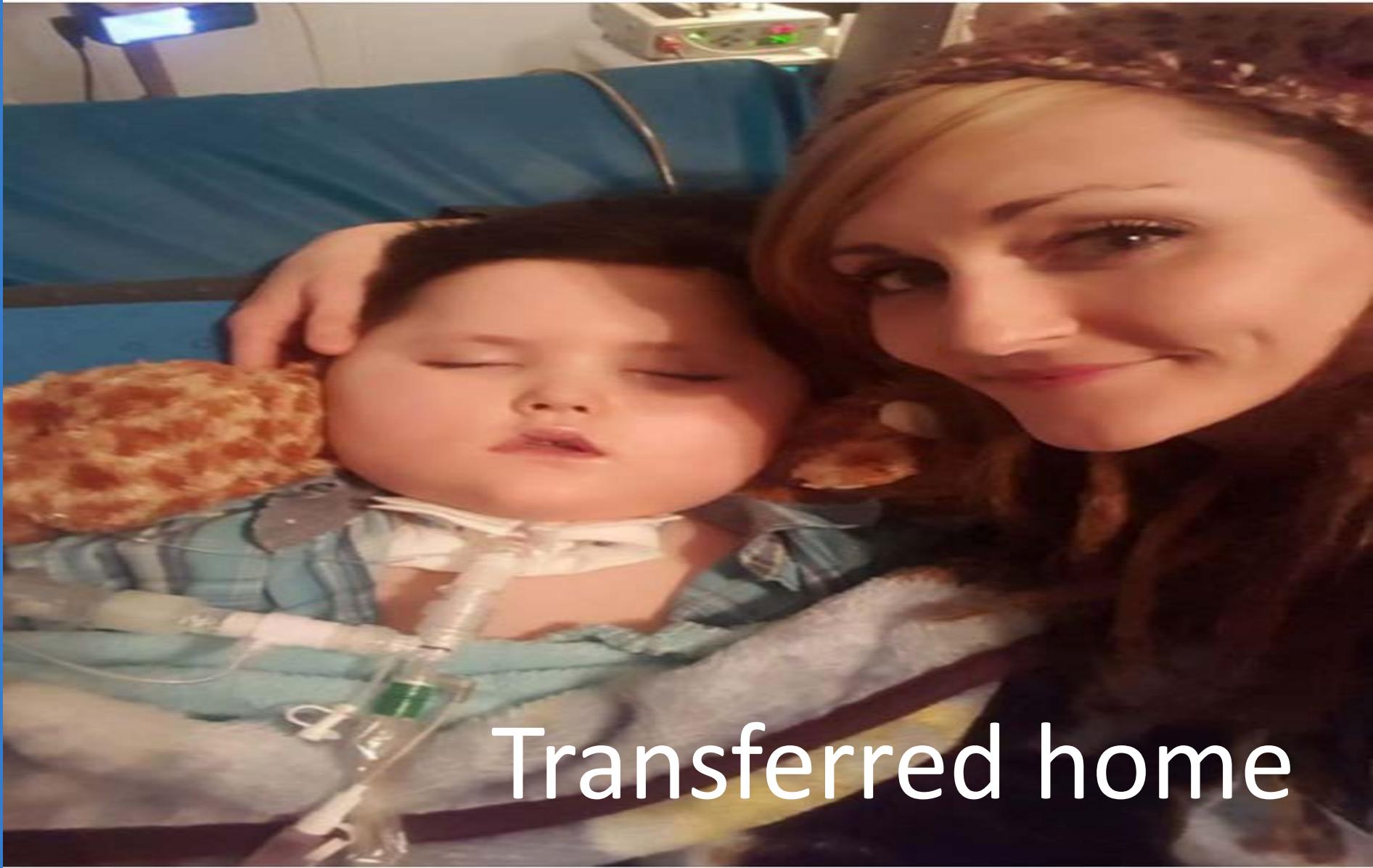
testing . . .

is denied”

“mother has sole
authority to make
medical decisions . . .
including . . . brain
functionality
examinations”

**Tasha Dawn Stone**Yesterday at 10:50 PM · 

...

Allen and I are home! Praise Jesus!!**Transferred home**





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

MT said

“yes”

KS also
said “yes”

Brett Shively

2yo “drown”

Wichita, 2006





Forbid brain viability exam

TRO - 02/01/06

D/C home - 03/17/06

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

CA also
said “yes”



Alex Pierce - drowned



LOMA LINDA
UNIVERSITY

CHILDREN'S
HOSPITAL



Refuse apnea test

1 ALLISON ARANDA
2 P.O. Box 2015
3 Napa, CA 94559
4 707.227.6744

FILED
5 SUPERIOR COURT OF CALIFORNIA
6 COUNTY OF SAN BERNARDINO
7 SAN BERNARDINO DISTRICT

8 JUN 7 2016

9 Attorney for Petitioner

10 BY Roberta Lee
11 DEPUTY

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF SAN BERNARDINO

15 ALEX PIERCE, by and through his
16 mother SABRINA PIERCE
17 Plaintiff,

18 vs.

19 LOMA LINDA UNIVERSITY MEDICAL
20 CENTER,

Defendant

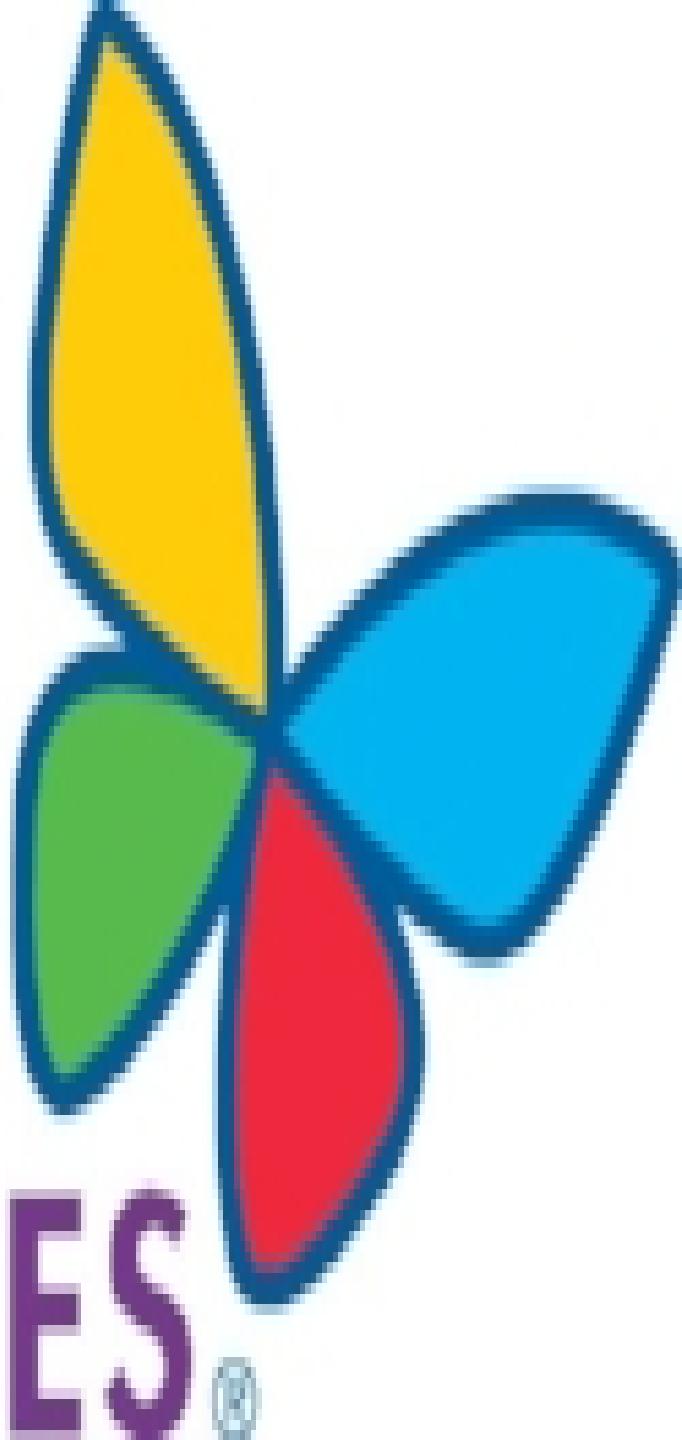
} Case No.: CIV-DS-1608931

**PROPOSED ORDER ON EX PARTE
MOTION FOR TEMPORARY
RESTRANDING ORDER**



**Israel
Stinson**

Children's
Hospital
LOS ANGELES



Do clinicians
need **consent**

for apnea test?

MT, KS, CA

said “yes”

Plausible

Normally, may
not do things to
patient without
consent





Med Mal

No



Virginia

Mirranda

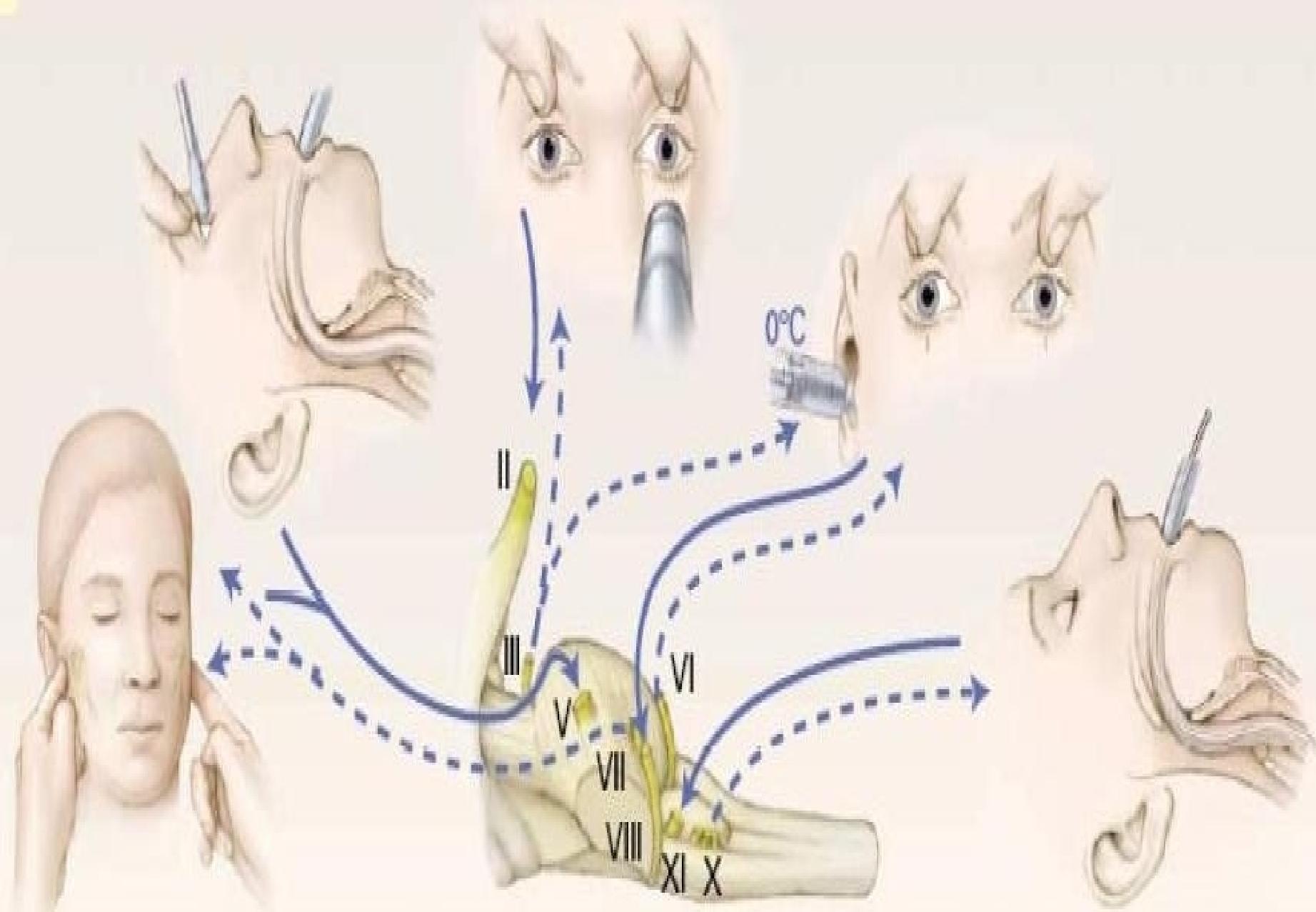
Lawson

Richmond, Virginia

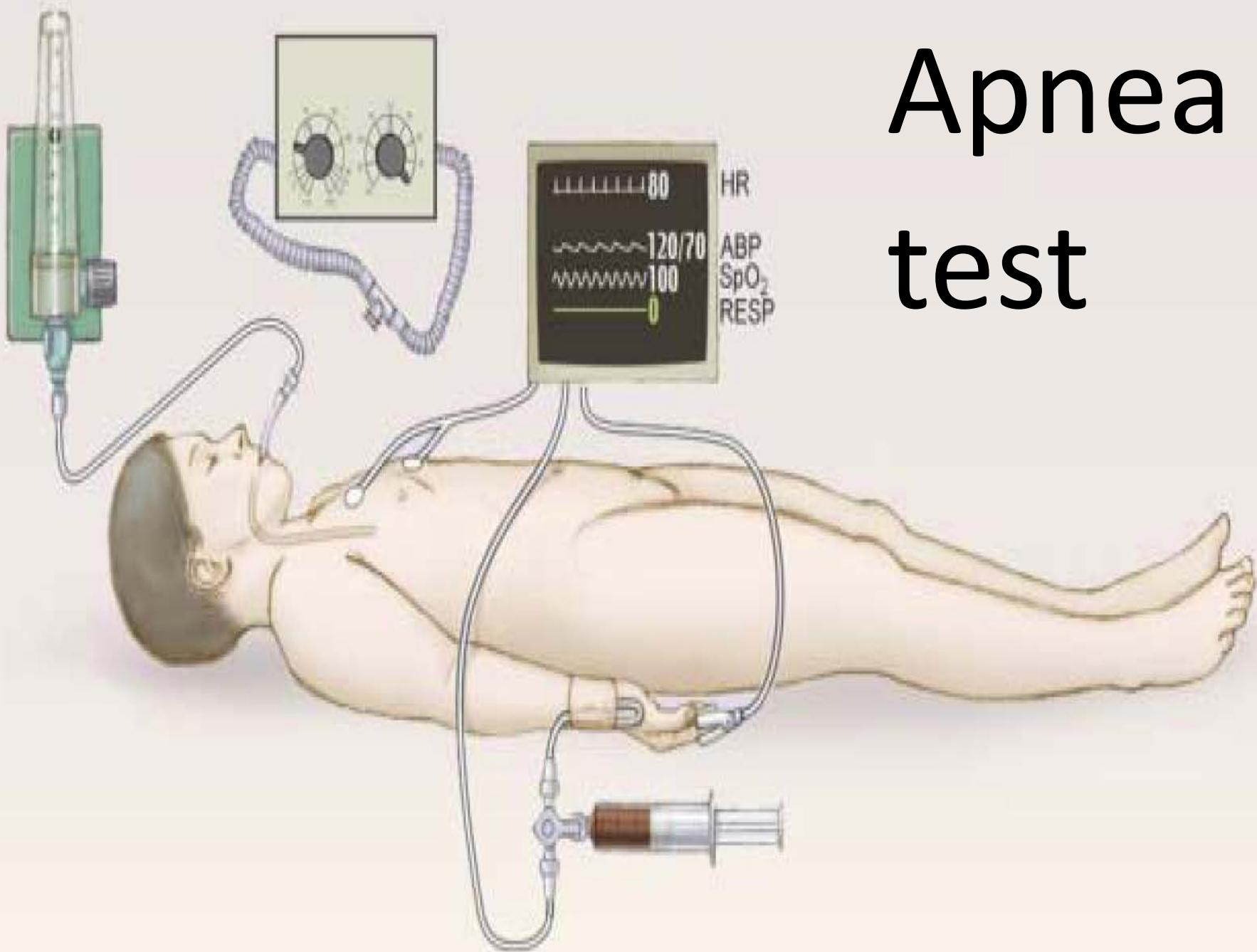


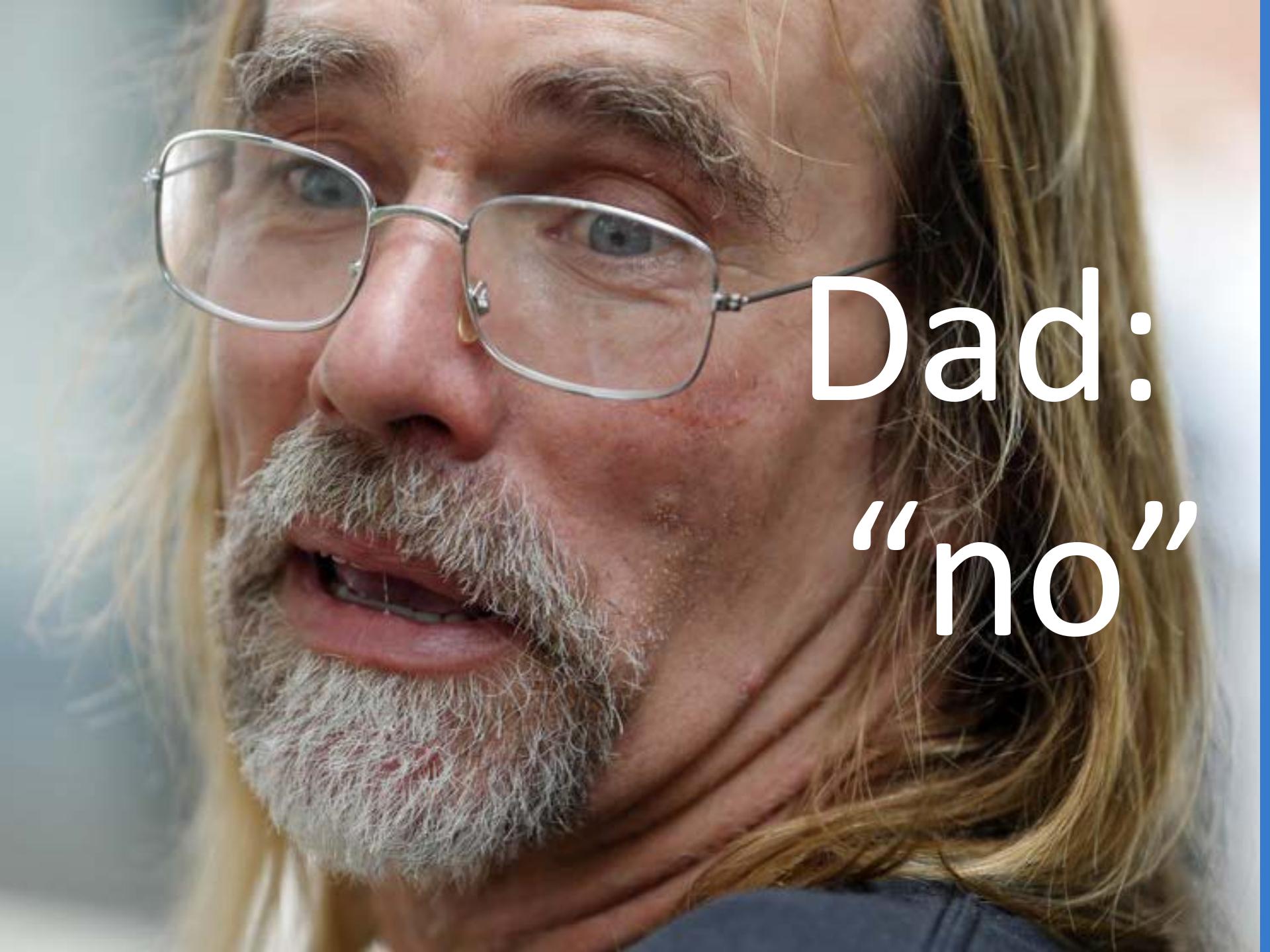


2-year-old
Choked popcorn - May 11, 2016



Apnea test



A close-up, slightly blurred photograph of an older man with a beard and glasses, looking directly at the camera with a neutral expression.

Dad:
“no”

I Alison Lawson and Patrick Lawson refuse any sort of "Brain Dead" testing including the "Apnea" test on our daughter Mirranda 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 Kelsey Lang .. 5/20/2016
Witnessed Lain Roache .. 5/20/2016



Richmond Circuit Court

June 10, 2016

Hospital

“is . . . allowed

to administer

the apnea test”

Do clinicians

need **consent**

for apnea test?

VA said

“no”

NV also
said “no”



A.B. 424

(June 2, 2017)



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

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



“. . . process for determining brain death is underway.

Consent need not be obtained . . .”



ALABAMA

Montgomery

Atlanta

GEORGIA

Tallahassee

Columbia
SOUTH
CAROLINA

NO!



YES



YES

California

Kansas

Montana

NO

Nevada

Virginia

Georgia

New York

Conflict

continues

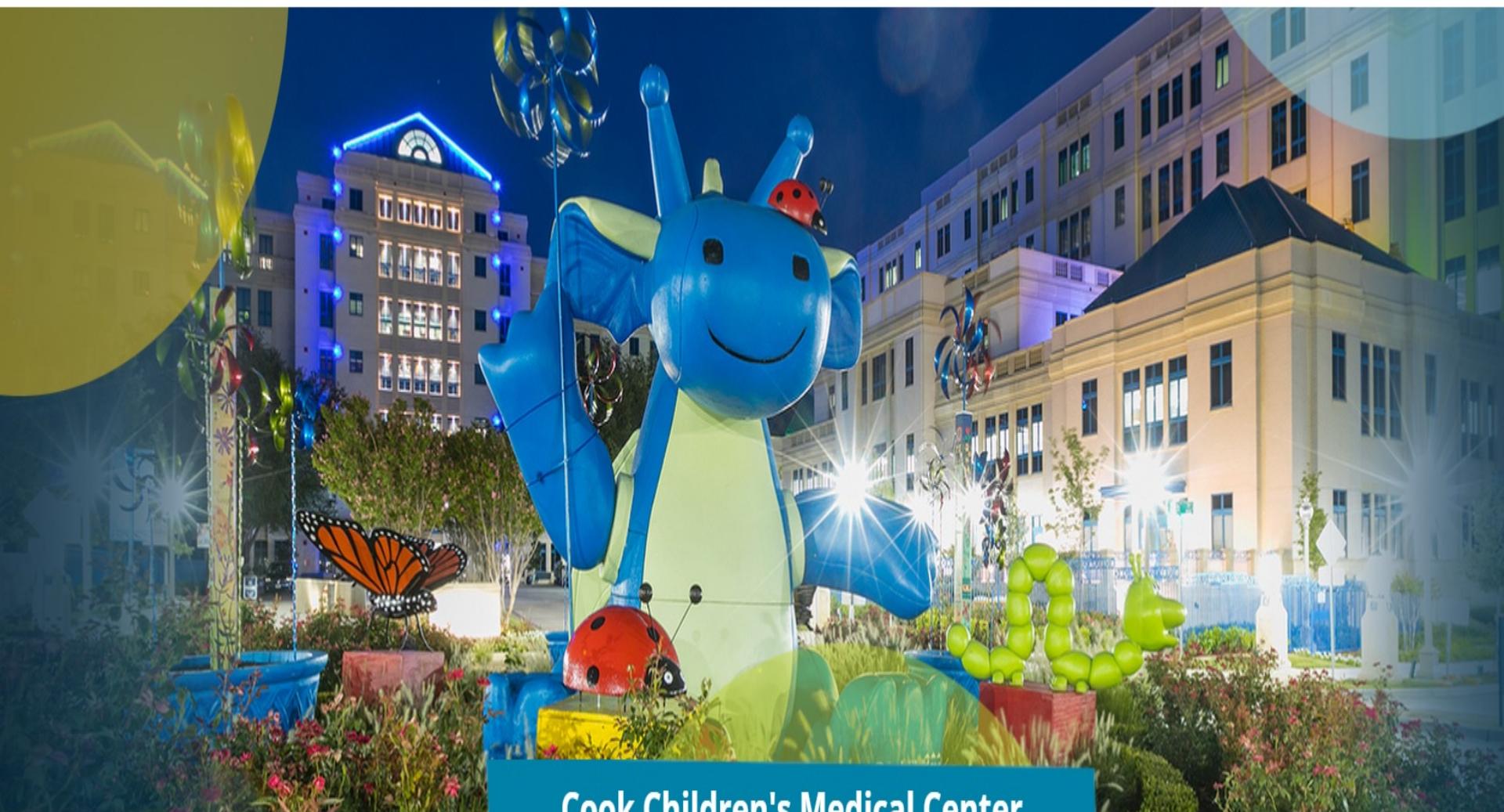
2 more recent cases in

DALLAS





McKinley Hawkins

[Doctors](#)[Locations](#)[Patients and Families](#)[Specialties](#)[Health Professionals](#)

Cook Children's Medical Center



Payton Summons

Not only

courts

Organ support after death by neurologic criteria

Results of a survey of US neurologists



$\frac{1}{4}$ neurologists
say need consent

That's
3rd attack
on BD

Attack

4 of 5



Jahi McMath

Dec. 12, 2013

Declared dead



Lost lawsuits

against

hospital

CERTIFICATION OF VITAL RECORD

OFFICE OF CLERK-RECORDER
COUNTY OF ALAMEDA
OAKLAND, CALIFORNIA

3052013245211

STATE FILE NUMBER

CERTIFICATE OF DEATH
USE BLACK INK ONLY / NO ERASURES, WHITEOUTS OR ALTERATIONS
13-100EV308

3201301008821

LOCAL REGISTRATION NUMBER

DECEASED PERSONAL DATA		CERTIFICATE OF DEATH		DECEASED PERSONAL DATA	
1. NAME OF DECEASED: FIRST (Given) JAHI		2. MIDDLE KELIS		3. LAST (Family) MCMATH	
AKA, ALSO KNOWN AS - Include full AKA (First, Middle, Last)		4. DATE OF BIRTH mmdd/yy 10/24/2000		5. AGE yrs 13	
6. BIRTH STATE/FOREIGN COUNTRY CA		7. MARITAL STATUS/SHIP (At time of Death) NEVER MARRIED		8. UNDER ONE YEAR Month Day 13	
9. EDUCATION - Highest Level Degree 07		10. SOCIAL SECURITY NUMBER 000-00-0000		9. UNDER ONE YEAR Month Day 13	
11. EVER IN U.S. ARMED FORCES? YES		12. MARITAL STATUS/SHIP (At time of Death) NEVER MARRIED		10. DATE OF DEATH mmdd/yy 12/12/2013	
13. DECEASED'S RACE: Up to 3 races may be listed (see worksheet on back)		14. DECEASED'S RACE: Up to 3 races may be listed (see worksheet on back)		11. HOUR (24 Hour) 1500	
15. USUAL OCCUPATION - Type of work for most of life. DO NOT USE RETIRED STUDENT		16. KIND OF BUSINESS OR INDUSTRY (e.g. grocery store, road construction, employment agency, etc.) E.C. REEMS ACADEMY		12. YEARS IN OCCUPATION 7	
17. DECEASED'S RESIDENCE (Street and number, or location) 2742 75TH AVE		18. COUNTY/PROVINCE ALAMEDA		19. ZIP CODE 94605	
20. CITY OAKLAND		21. CITY ALAMEDA		22. YEARS IN COUNTY 13	
23. INFORMANT'S NAME/RELATIONSHIP NAILAH WINKFIELD, MOTHER		24. INFORMANT'S MAILING ADDRESS (Street and number, or route route number, city or town, state and zip) 2742 75TH, OAKLAND, CA 94605		25. STATE/FOREIGN COUNTRY CA	
26. NAME OF SURVIVING SPOUSE/SPAWN-FIRST -		27. MIDDLE DELMAR		28. LAST (BIRTH NAME) MCMATH	
29. NAME OF FATHER/PARENT-FIRST MILTON		30. MIDDLE NAILAH		31. LAST (BIRTH NAME) SPEARS	
32. NAME OF MOTHER/PARENT-FIRST LATASHA		33. LAST (BIRTH NAME) MUNTU DAVIS, M.D.		34. BIRTH STATE MI	
35. DEPOSITION DATE mmdd/yy 01/06/2014		36. PLACE OF FINAL DISPOSITION UNKNOWN 3237 ARNOLD AVE, SALINA, KS 67401		37. DEPOSITION DATE mmdd/yy 01/03/2014	
38. TYPE OF DEPOSITION REMOVAL		39. SIGNATURE OF EMBALMER ► NOT EMBALMED		40. LICENSE NUMBER	
41. NAME OF FUNERAL ESTABLISHMENT LATASHA SPEARS-WINKFIELD		42. LICENSE NUMBER NONE		43. SIGNATURE OF LOCAL REGISTRAR ► MUNTU DAVIS, M.D.	
44. PLACE OF DEATH CHILDREN'S HOSPITAL		45. IF HOSPITAL SPECIFY ONE X Hospital		46. IF OTHER THAN HOSPITAL, SPECIFY ONE Nursing Home	
47. FACILITY ADDRESS OR LOCATION WHERE FOUND (Street and number, or location) ALAMEDA 747 52ND STREET		48. IF HOSPITAL SPECIFY ONE EVOP DOA		49. IF OTHER THAN HOSPITAL, SPECIFY ONE Hospice	
50. CAUSE OF DEATH IMMEDIATE CAUSE PENDING INVESTIGATION		51. IF HOSPITAL SPECIFY ONE Died in Hospital		52. IF OTHER THAN HOSPITAL, SPECIFY ONE Died at Home	
53. SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH Natural Trauma Seeding to cause Underlying Cause present or existing at time of death Killed the victim Resulting in death last		54. IF HOSPITAL SPECIFY ONE Died in Hospital		55. IF OTHER THAN HOSPITAL, SPECIFY ONE Died at Home	
56. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN 50		57. IF HOSPITAL SPECIFY ONE Died in Hospital		58. IF OTHER THAN HOSPITAL, SPECIFY ONE Died at Home	
59. WAS OPERATION PERFORMED FOR ANY CONDITION IN ITEM 50 OR 51? If yes, list type of operation and date		60. IF FEMALE, PREGNANT IN LAST YEAR? X YES		61. IF FEMALE, PREGNANT IN LAST YEAR? X NO	
62. IF FEMALE, PREGNANT IN LAST YEAR? X NO		63. IF FEMALE, PREGNANT IN LAST YEAR? X UNK		64. IF FEMALE, PREGNANT IN LAST YEAR? X UNK	
65. I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE HOUR, DATE, AND PLACE STATED FROM THE CAUSES STATED Deceased Admitted Since _____ Deceased Last Seen Alive _____		66. SIGNATURE AND TITLE OF CERTIFIER ►		67. LICENSE NUMBER INVS	
68. MANNER OF DEATH Natural Accident Homicide Suicide Investigation Inquest Could not be determined		69. INJURED AT WORK? X YES X NO X UNK		70. INJURY DATE mmdd/yy 01/03/2014	
71. PLACE OF INJURY (e.g. home, construction site, wooded area, etc.) -		72. HOUR (24 Hour) -		73. HOUR (24 Hour) -	
74. DESCRIBE HOW INJURY OCCURRED (check which resulted in injury)		75. SIGNATURE OF CORONER / DEPUTY CORONER JESSICA D HORN		76. TYPE NAME, TITLE OF CORONER / DEPUTY CORONER JESSICA D HORN, DEPUTY CORONER	
77. DATE mmdd/yy 01/03/2014		78. FAX AUTH. #		79. CENSUS TRACT	
80. STATE REGISTRAR		81. STATE REGISTRAR		82. STATE REGISTRAR	

002357979

CERTIFIED COPY OF VITAL RECORD
STATE OF CALIFORNIA, COUNTY OF ALAMEDA

* 0 0 2 3 5 7 9 7 9 *

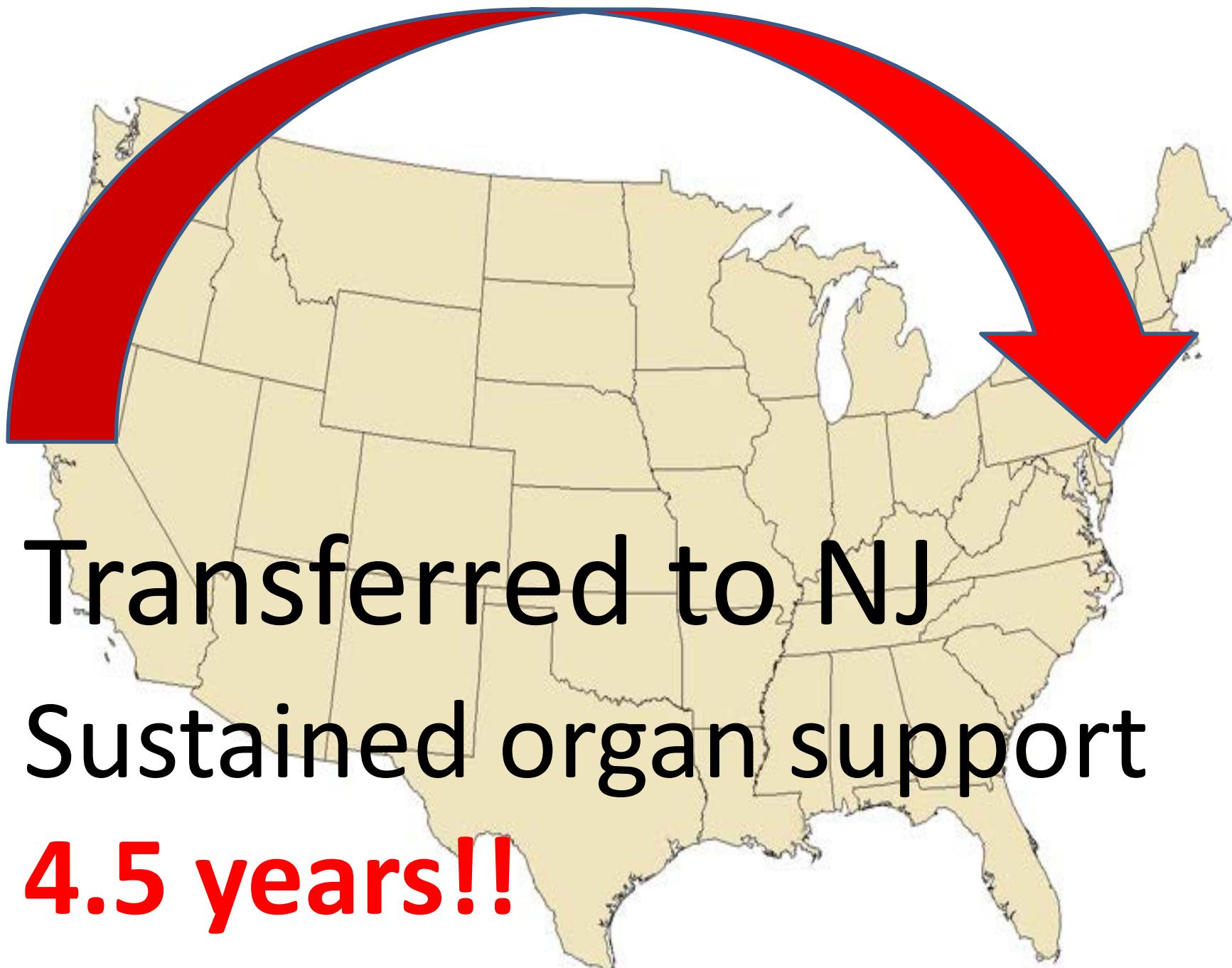
. This is a true and exact reproduction of the document officially registered
and placed on file in the office of the Alameda County Clerk-Recorder.

DATE ISSUED JAN 13 2014

This copy is not valid unless prepared on an engraved border displaying the date, seal and signature of the Clerk-Recorder.

EXHIBIT V

DOCUMENT TO ESTABLISH IDENTITY
INFORMATIONAL - NOT A VALID



**Transferred to NJ
Sustained organ support**

4.5 years!!

Mar. 2015

Med Mal lawsuit

future

medical
expenses

Dead people

do not have

medical expenses

Re-litigate

status

as alive

Dec. 2013



Feb. 2019



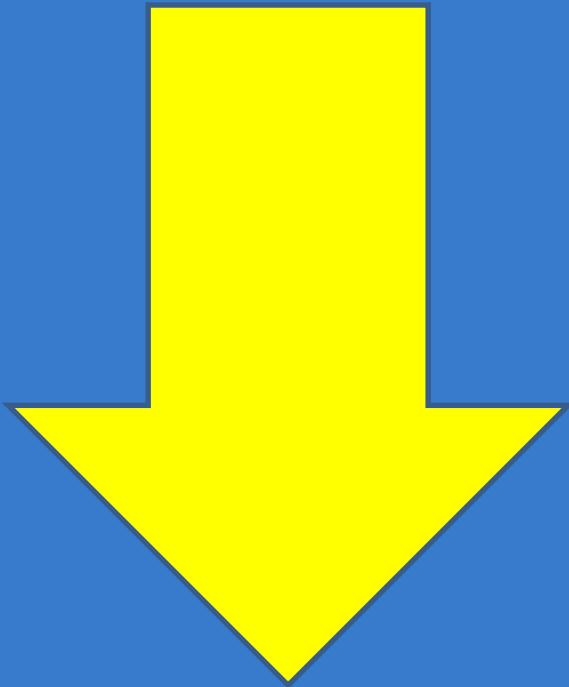
Argument
over facts,
not law

Does not attack
medical criteria
themselves

No longer meets criteria



Dead at T1



Not dead at T2

Problem

stay dead

Death
should be
irreversible



Collateral estoppel

Chance

to prove



SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

“Triable issue . . .
whether changed
circumstances”

BUT

KURT OTTO 1929 — 2000



Fly High Jahi
JAHI KELIS MCMARTH
2000 — 2018



June 2018

STATE OF NEW JERSEY

A0013872813

CERTIFICATE OF DEATH

STATE FILE NUMBER
20180037090

DECEASED NAME

JAHI KELIS MCMATH

DATE OF BIRTH

10/24/2000

SEX

FEMALE

DATE OF DEATH

06/22/2018

PLACE OF DEATH

NEW BRUNSWICK CITY

COUNTY OF DEATH

MIDDLESEX

RESIDENCE ADDRESS

308 PICKERING PLACE

SOCIAL SECURITY NUMBER

606-23-1015

MUNICIPALITY OF RESIDENCE

FRANKLIN TOWNSHIP

COUNTY OF RESIDENCE

SOMERSET

DOMESTIC STATUS

SINGLE/NEVER MARRIEDMANNER OF DEATH: **NATURAL**

CAUSE OF DEATH:

**BLEEDING
HYPVOLEMIC SHOCK
HEPATIC FAILURE
ANOXIC BRAIN INJURY**

DATE ISSUED: **JUNE 29, 2018**DATE FILED WITH REGISTRAR: **06/29/2018**

AMENDED DATE:

ISSUED BY:

New Brunswick City**Jenny Sanders, Deputy Registrar**

This is to certify that the above is correctly copied from a record on file in my office.
Certified copy not valid unless the raised Great Seal of the State of New Jersey or the seal of the issuing municipality or county, is affixed hereon.

REG-42A
JUN 14

THIS DOCUMENT HAS MULTIPLE SECURITY FEATURES TO DETER FRAUD; VOID IF ALTERED

Vincent T. Arrisi
Vincent T. Arrisi
State Registrar
Office of Vital Statistics and Registry



THIS DOCUMENT CONTAINS A UNIQUE STATE OF NJ WATERMARK HOLD AT LIGHT TO VERIFY

21032617

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) SBN 93578

Bruce M. Brusavich

AgnewBrusavich, 20355 Hawthorne Boulevard, 2nd Fl., Torrance, CA 90503

TELEPHONE NO.: (310) 793-1400

FAX NO. (Optional): (310) 793-1499

FOR COURT USE ONLY

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): Plaintiffs LATASHA NAILAH SPEARS; et al.

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 Hall of Justice

PLAINTIFF/PETITIONER: LATASHA NAILAH SPEARS WINKFIELD; et al.

DEFENDANT/RESPONDENT: FREDERICK S. ROSEN, M.D.; et al.

REQUEST FOR DISMISSAL

CASE NUMBER: RG 15760730

FILED
ALAMEDA COUNTY

SEP 07 2018

CLERK OF THE SUPERIOR COURT
By Sue Peake Deputy

A conformed 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 3.770.)

1. TO THE CLERK: Please dismiss this action as follows:

That's 4th

challenge

Attack

5 of 5

Most
serious
attack

Are medical
criteria for BD

legally

sufficient?

Reno, Nevada



Aden Hailu



April 1, 2015

Catastrophic anoxic
brain injury during
exploratory
laparotomy

May 28, 2015

Met AAN criteria
for brain death



Dad: “she
is not dead”



Dad

loses

Trial court

AAN criteria met

Aden is dead

A close-up photograph of a man with dark hair and a beard, wearing a dark suit and white shirt, looking down and to the side with a serious expression. In the foreground, the back of another man's head and shoulders are visible, wearing a dark suit. The background is blurred.

Dad
appeals
Nevada
Supreme
Court

Dad

wins



Supreme Court of Nevada

November 2015

Irrelevant if Aden
meets AAN criteria

NOT the
“right” criteria

2 reasons

1

UDDA

“must be made in
accordance with
accepted medical
standards”

BUT

Original Investigation

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;
Galen V. Henderson, MD; Eelco F. M. Wijdicks, MD, PhD

IMPORTANCE Brain death is the irreversible cessation of function of the entire brain, and it is a medically and legally accepted mechanism of death in the United States and worldwide.

 Supplemental content at
jamaneurology.com

Variability of brain death determination guidelines in leading US neurologic institutions

10 of 10

Burg & Clegg, 1991

John
F. Kennedy

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

Improving uniformity in brain death determination policies over time

OPEN

Hilary H. Wang, MD

Panayiotis N. Varelas,

ABSTRACT

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

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 Hocker, Eelco F.M. Wijdicks, Alejandro A. Rabinstein

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

AAN



Hospital policies



Clinicians

Number of physicians

Qualifications

How tests
administered

Hailu = AAN

AAN \neq UDDA

Court
throws BD
into doubt

uncertainty



Nevada

legislature

steps in

A.B. 424 (2017)



“accepted
medical
standards”

AAN / AAP

authoritative
criteria



Supreme Court of Nevada

November 2015

AAN does not
measure what
the UDDA
requires

UDDA

Wis. Stat.

146.71

S.B. 327 (1981), Ch. 134

“irreversible
cessation . . .

all functions of
. . . **entire** brain”

BUT

Brain dead
people
do stuff

Controversies in the Determination of Death

*A White Paper by
the President's Council on Bioethics*



Acknowledge conceptual problems



Gestate
a fetus



Heal wounds
Fight infections
Stress response

Grow
Sexually mature
Regulate temp



Sexually responsive

UMN, *J Neurosurgery* 35(2): 211-18

AAN measures

only cessation

some functions

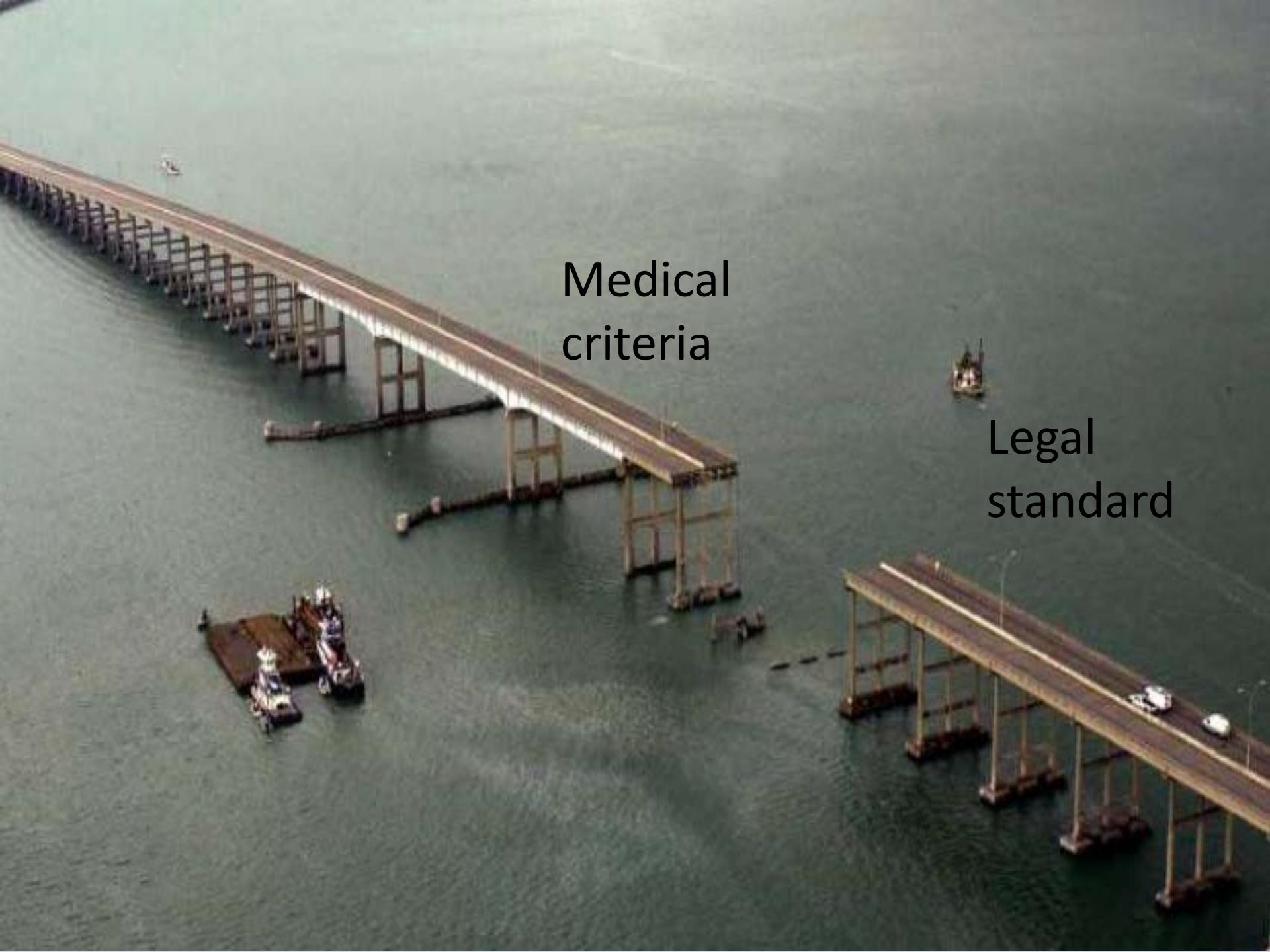
of **part** of brain

Supposed to

measure:

“**all** functions”

“**entire** brain”



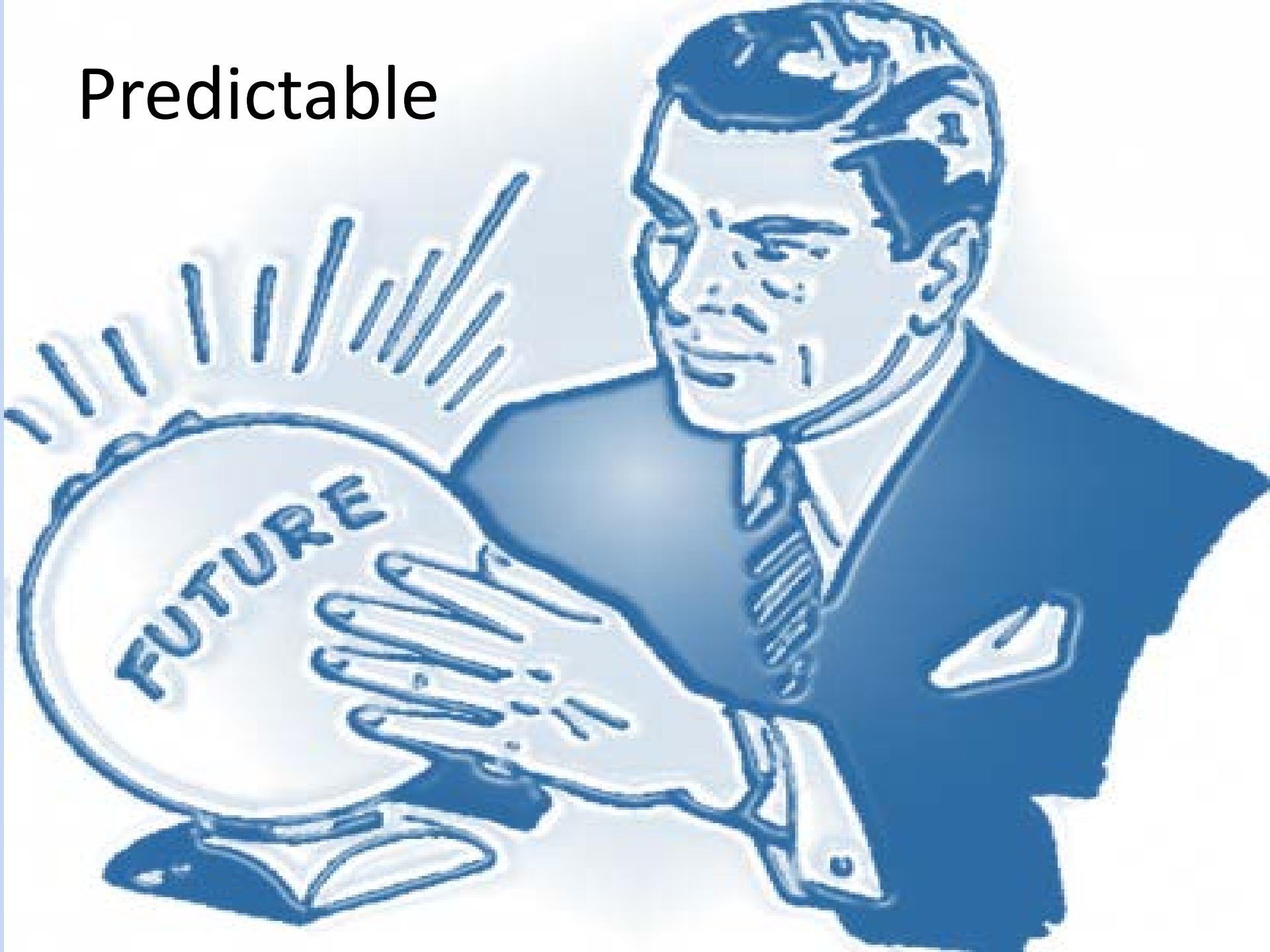
Medical
criteria

Legal
standard

UDDA
requires

Clinicians
measure

Predictable



UDDA

“silent on . . .

diagnostic tests

. . . procedures”

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

Defers to
medical
profession

BUT

Discretion not
unfettered



Medical criteria
must measure
legal standards

“irreversible

cessation . . .

all functions of

. . . entire brain”



99%



Medical criteria
drifted too far
from statute



Legal standard

may demand

more than

medical criteria



January

2019

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@lahey.org

“neuroendocrine
function may be
present”

“not inconsistent
with the whole
brain standard of
death.”

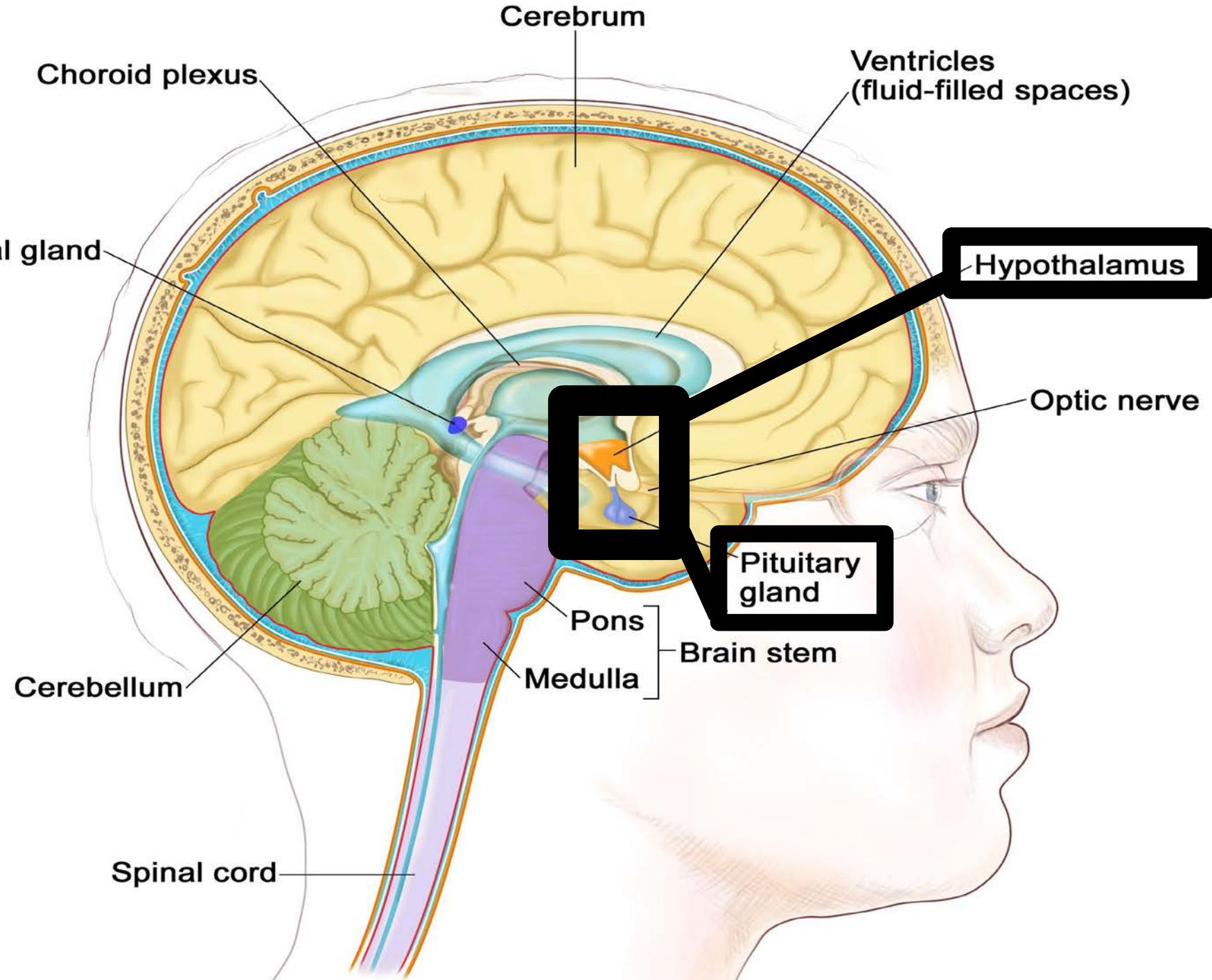
UDDA

Supposed to

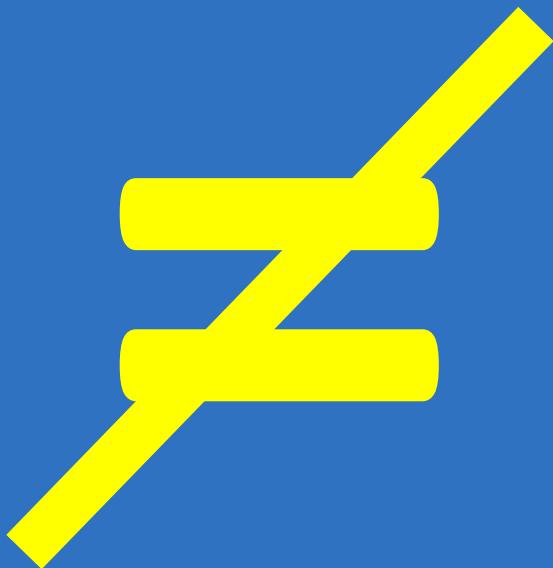
measure:

“**all** functions”

“**entire** brain”



Medically dead



Legally dead

Conclusion

Debate

has been

academic

THE JOURNAL OF CLINICAL ETHICS

VOLUME 25, NUMBER 3

FALL 2014

At the Bedside

What Should Careproviders Do When a Patient "Won't Budge"?
Edmund G. Howe

Clinical Ethics at 25 Years

Empirical Bioethics Research Is a Winner, But Bioethics Mission Creep Is a False Alarm
Anne Lederman Flamm and Eric Kodish

Power and Jurisdiction
John H. Evans

Features

When Should We Not Respect a Patient's Wish?
Stephen Napier

The Ethical and Clinical Importance of Measuring Consciousness in Continuously Sedated Patients
Kasper Raus, Martine de Laat, Eric Mortier, and Sigrid Sterckx

The Proportionate Value of Proportionality in Palliative Sedation
Jeffrey T. Berger

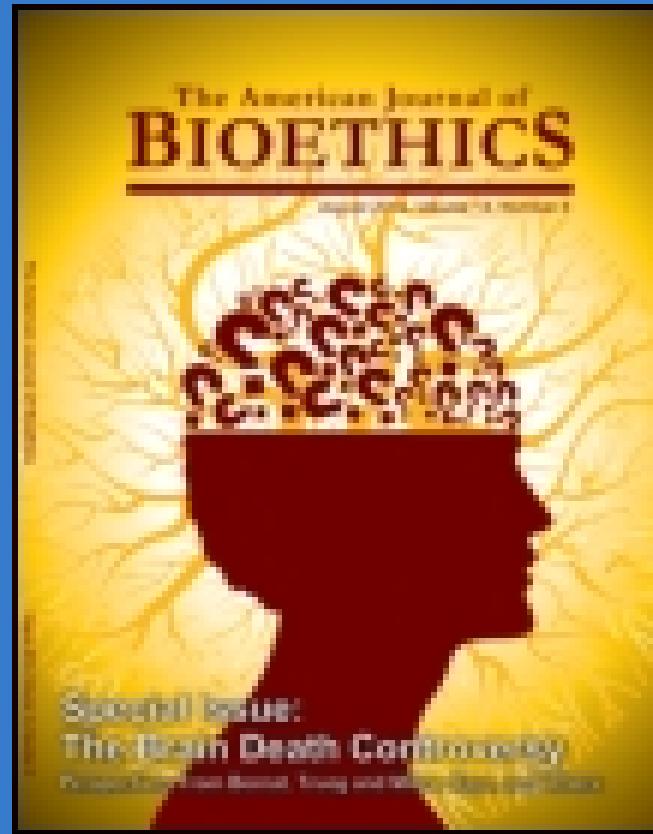
Practice Boundaries

Family Members' Requests to Extend Physiologic Support after Declaration of Brain Death: A Case Series Analysis and Proposed Guidelines for Clinical Management
Anne Lederman Flamm, Martin L. Smith, and Patricia A. Mayer

A Survey of Healthcare Industry Representatives' Participation in Surgery: Some New Ethical Concerns
Jeffrey Bedard, Crystal Dea Moore, and Wayne Shelton

Law

Legal Briefing: Brain Death and Total Brain Failure
Thaddeus Mason Pope



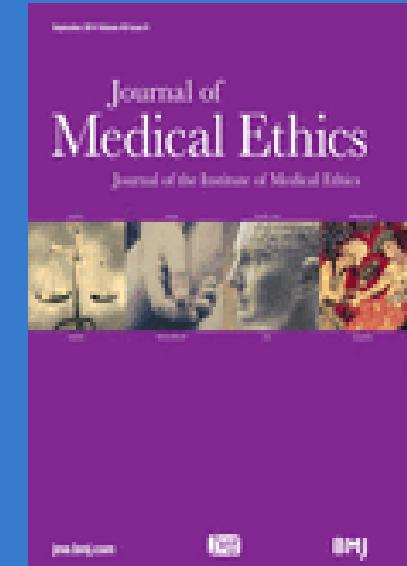
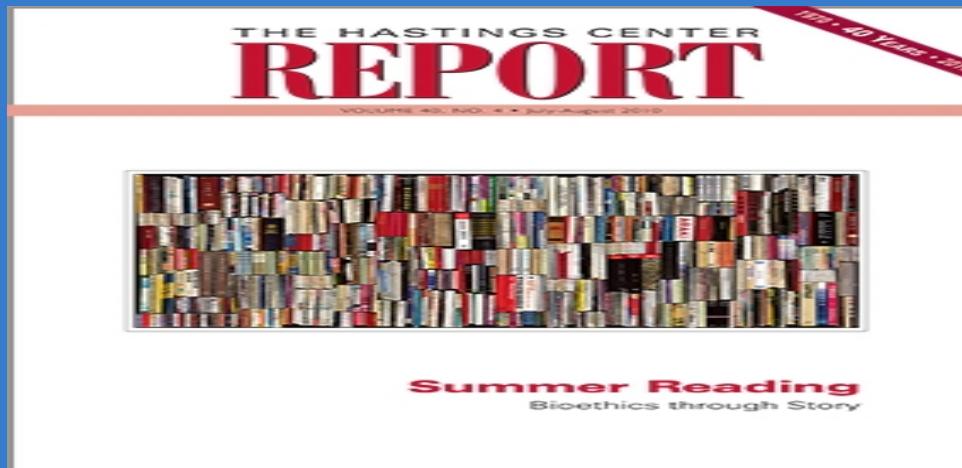
VOLUME 25 NUMBER 4 OCTOBER 2014

CQ

Cambridge Quarterly of Healthcare Ethics

A Quarterly Journal Devoted to Engaging a World Community of Bioethicists

CAMBRIDGE
UNIVERSITY PRESS





Death, Dying, and Organ Transplantation

Reconstructing Medical Ethics at the End of Life

FRANKLIN G. MILLER
ROBERT D. TRUOG

OXFORD

DEFINING DEATH

The Case for Choice

ROBERT WEINSTEIN

PHOTOGRAPHY

ELAINE M. PHOTOS

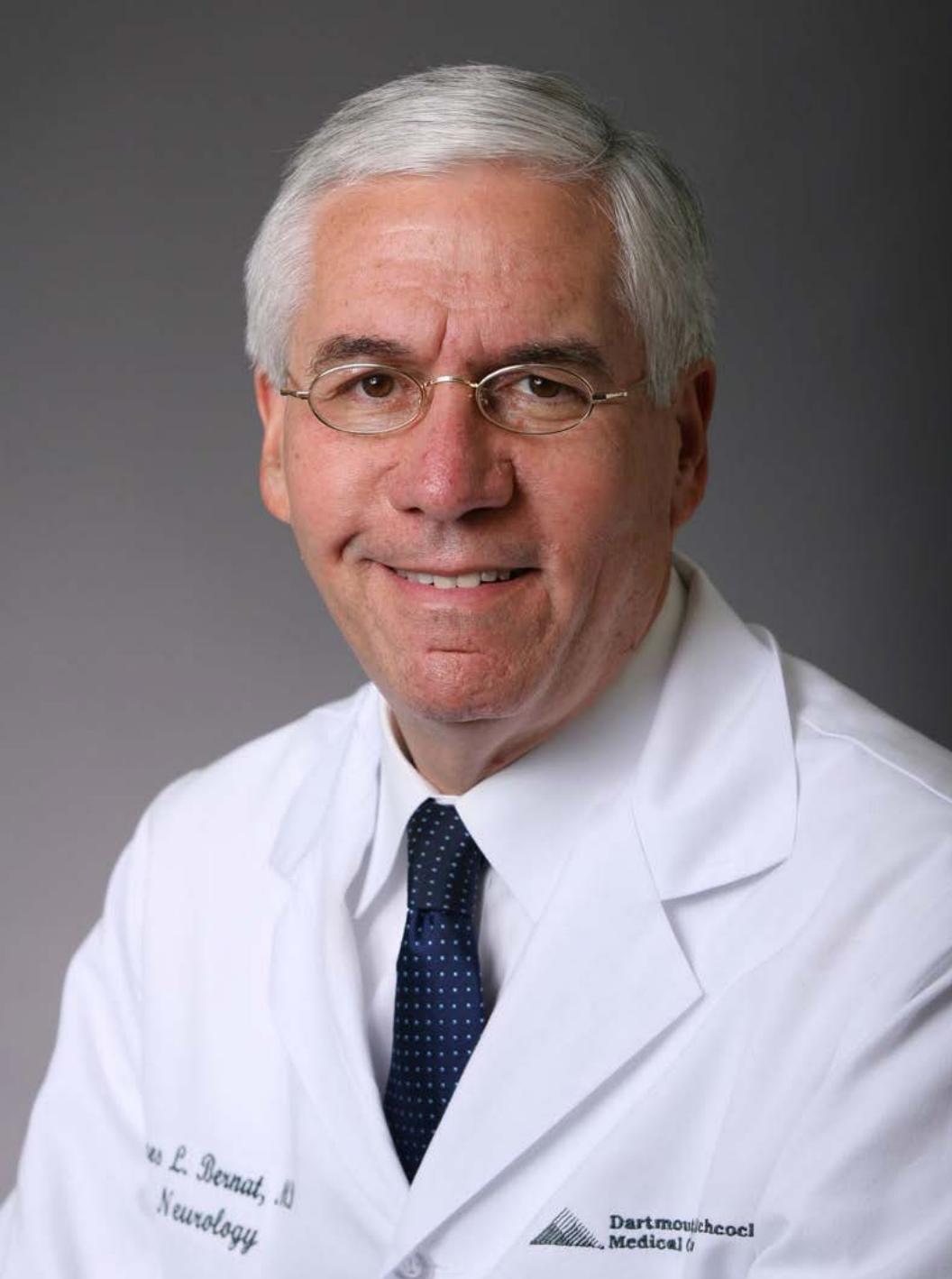
REPLACEMENT PARTS

True OEM-quality replacement parts for your
Chargers and DC-to-DC converters



TruePower® Quality

DC-TO-DC CONVERTERS | CHARGERS | POWER SUPPLIES



“critics and
skeptics have
not gained
much
traction with
lawmakers”

Not true

anymore

Courts and legislatures are tackling this



Not just
academic
debate

Now it is a
public policy
question

U.S. hospitals

will see

more cases

Courtesy Nonnie Hawkins



CNN



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

Life

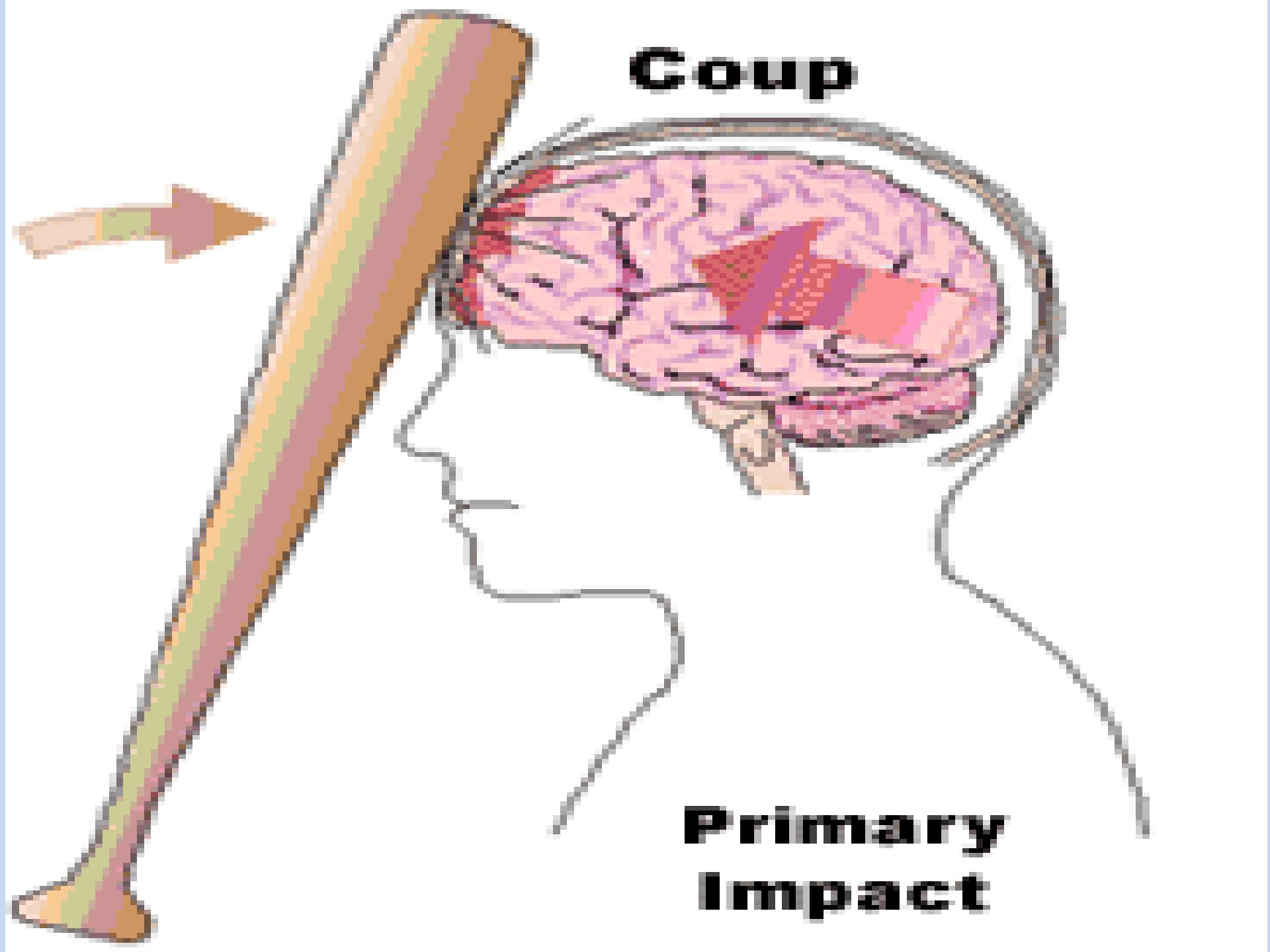
Death

Life

Death



case

A diagram of a human brain within a skull. A large, irregularly shaped area of red and purple coloration is visible on the left side of the brain, representing a coup contusion. A smaller, more diffuse area of red and purple is visible on the right side, representing primary impact. A large, multi-colored arrow (yellow, green, red) points from the bottom left towards the brain, indicating the direction of impact. The word 'Coup' is written in black text at the top center, and 'Primary Impact' is written in black text at the bottom center.

Coup

**Primary
Impact**

A photograph of a pair of bright red, pointed-toe shoes resting on a bed of green moss. The shoes are positioned in front of a white garden fence. In the background, there are green bushes and a paved walkway with yellow tiles. The overall scene is whimsical and suggests a connection to the Wizard of Oz.

**Wicked Witch
of the East**



DING DONG THE WITCH IS DEAD!



But we've got to **verify** it legally,

to see if she

is morally, ethically

spiritually, physically

positively, absolutely

undeniably and reliably Dead



Death

She's not only

merely dead,

She's really most

sincerely dead.

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W www.thaddeuspope.com

B medicalfutility.blogspot.com

References

Materials from the
cases discussed in
this presentation

are available at

<http://thaddeuspope.com/braindeath>

Medical Futility Blog

Since July 2007, I have been blogging, almost daily, to **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.

Variability and Ambiguity of
Contemporary Laws about Death by
Neurologic Criteria in the United
States, JOURNAL OF LAW, MEDICINE
& ETHICS (forthcoming 2019) (with
Ariane Lewis and others).

Brain Death and the Law, World Brain
Death Project (in progress)

The 50-Year Legacy of the Harvard Report on Brain Death, 320(4) JAMA 335-336 (2018) (with Robert Truog & David Shumway Jones).

Brain Death and the Law – Hard Cases and Legal Challenges, 48(5) HASTINGS CENTER REPORT (Nov/Dec 2018).

Brain Death Rejected: Expanding Clinicians' Legal Duties to Accommodate Religious Objections and Continue Physiological Support, in LAW, RELIGION, AND AMERICAN HEALTHCARE (Cambridge Univ. Press 2017).

Brain Death: Legal Status and Growing Conflict, and Court Challenges, 37 JOURNAL OF LEGAL MEDICINE 265-324 (2017).

Legal Standards for Brain Death, 13
JOURNAL OF BIOETHICAL INQUIRY
173-178 (2016).

Brain Death: Legal Obligations and
the Courts, 35 SEMINARS IN
NEUROLOGY 174-179 (2015) (with
Christopher Burkle).

Brain Death: Legal Duties to Accommodate Religious Objections 147 CHEST e69 (2015).

Legal Briefing: Brain Death and Total Brain Failure, 25(3)
JOURNAL OF CLINICAL ETHICS
245-257 (2014).

Pregnant and Dead in Texas: A
Bad Law, Badly Interpreted, LOS
ANGELES TIMES (Jan. 16. 2014)
(with Art Caplan).

Legal Briefing: Organ Donation,
21(3) JOURNAL OF CLINICAL
ETHICS 243-263 (2010).

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