

DETERMINATION OF DEATH AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor: Brad M. Daw

LONG TITLE

General Description:

This bill allows for a registered nurse to make a determination of death in certain circumstances.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows a nurse to make a determination of death in certain circumstances; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-34-2, as last amended by Laws of Utah 2011, Chapter 297

ENACTS:

26-34-4, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-34-2** is amended to read:

26-34-2. Definition of death -- Determination of death.

(1) An individual is dead if the individual has sustained either:

- 30 (a) irreversible cessation of circulatory and respiratory functions; or
- 31 (b) irreversible cessation of all functions of the entire brain, including the brain stem.
- 32 (2) A determination of death shall be made in accordance with this chapter and
- 33 accepted medical standards.

34 Section 2. Section **26-34-4** is enacted to read:

35 **26-34-4. Determination of death made by registered nurse.**

36 (1) As used in this section:

- 37 (a) "Health care facility" means the same as that term is defined in Section 26-21-2.
- 38 (b) "Physician" means a physician licensed under:
 - 39 (i) Title 58, Chapter 67, Utah Medical Practice Act; or
 - 40 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
- 41 (c) "Registered nurse" means a registered nurse licensed under Title 58, Chapter 31b,
- 42 Nurse Practice Act.

43 (2) A registered nurse may make a determination of death of an individual if:

- 44 (a) an attending physician has:
 - 45 (i) documented in the individual's medical or clinical record that the individual's death
 - 46 is anticipated due to illness, infirmity, or disease no later than 180 days after the day on which
 - 47 the physician makes the documentation; and
 - 48 (ii) established clear assessment procedures for determining death;
- 49 (b) the death actually occurs within the 180-day period described in Subsection (2)(a);
- 50 and

51 (c) at the time of the documentation described in Subsection (2)(a), the physician

52 authorized the following, in writing, to make the determination of death:

- 53 (i) one or more specific registered nurses; or
- 54 (ii) if the individual is in a health care facility that has complied with Subsection (5),
- 55 all registered nurses that the facility employs.

56 (3) A registered nurse who has determined death under this section shall:

- 57 (a) document the clinical criteria for the determination in the individual's medical or

58 clinical record;

59 (b) notify the physician described in Subsection (2); and

60 (c) ensure that the death certificate includes:

61 (i) the name of the deceased;

62 (ii) the presence of a contagious disease, if known; and

63 (iii) the date and time of death.

64 (4) Except as otherwise provided by law or rule, a physician licensed under Title 58,

65 Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical

66 Practice Act, shall certify a determination of death described in Subsection (3) within 24 hours

67 after the registered nurse makes the determination of death.

68 (5) (a) For a health care facility to be eligible for a general authorization described in

69 Subsection (2)(c), the facility shall adopt written policies and procedures that provide for the

70 determination of death by a registered nurse under this section.

71 (b) A registered nurse that a health care facility employs may not make a determination

72 of death under this section unless the facility has adopted the written policies and procedures

73 described in Subsection (5)(a).

74 (6) The department may make rules, in accordance with Title 63G, Chapter 3, Utah

75 Administrative Rulemaking Act, to ensure the appropriate determination of death under this

76 section.