

N.J.S.A. 26:6A-1. Short title and purpose

- a. This act shall be known and may be cited as the “New Jersey Declaration of Death Act.”
- b. The death of an individual shall be declared in accordance with the provisions of this act.

N.J.S.A. 26:6A-2. Recognition of traditional cardio-respiratory criteria

An individual who has sustained irreversible cessation of all circulatory and respiratory functions, as determined in accordance with currently accepted medical standards, shall be declared dead.

N.J.S.A. 26:6A-3. Recognition of modern neurological criteria

Subject to the standards and procedures established in accordance with this act, an individual whose circulatory and respiratory functions can be maintained solely by artificial means, and who has sustained irreversible cessation of all functions of the entire brain, including the brain stem, shall be declared dead.

N.J.S.A. 26:6A-4. Standards and procedures for declaration of death based upon neurological criteria

- a. A declaration of death upon the basis of neurological criteria pursuant to section 3 of this act 1 shall be made by a licensed physician professionally qualified by specialty or expertise, based upon the exercise of the physician's best medical judgment and in accordance with currently accepted medical standards that are based upon nationally recognized sources of practice guidelines, including, but not limited to, those adopted by the American Academy of Neurology.
- b. Subject to the provisions of this act, the Department of Health, jointly with the State Board of Medical Examiners, shall adopt, and from time to time revise, regulations setting forth requirements, by specialty or expertise, for physicians authorized to declare death upon the basis of neurological criteria. The regulations shall not require the use of any specific test or procedure in the declaration of death upon the basis of neurological criteria.
- c. If the individual to be declared dead upon the basis of neurological criteria is or may be an organ donor, the physician who makes the declaration that death has occurred shall not be the organ transplant surgeon, the attending physician of the organ recipient, or otherwise an individual subject to a potentially significant conflict of interest relating to procedures for organ procurement.

- d. If death is to be declared upon the basis of neurological criteria, the time of death shall be upon the conclusion of definitive clinical examinations and any confirmation necessary to determine the irreversible cessation of all functions of the entire brain, including the brain stem.

N.J.S.A. 26:6A-5. Exemption to accommodate personal religious beliefs

The death of an individual shall not be declared upon the basis of neurological criteria pursuant to sections 3 and 4 of this act 1 when the licensed physician authorized to declare death, has reason to believe, on the basis of information in the individual's available medical records, or information provided by a member of the individual's family or any other person knowledgeable about the individual's personal religious beliefs that such a declaration would violate the personal religious beliefs of the individual. In these cases, death shall be declared, and the time of death fixed, solely upon the basis of cardio-respiratory criteria pursuant to section 2 of this act.

N.J.S.A. 26:6A-6. Immunities

A licensed health care practitioner, hospital, or the health care provider who acts in good faith and in accordance with currently accepted medical standards to execute the provisions of this act and any rules or regulations issued by the Department of Health or the Board of Medical Examiners pursuant to this act, shall not be subject to criminal or civil liability or to discipline for unprofessional conduct with respect to those actions. These immunities shall extend to conduct in conformity with the provisions of this act following enactment of this act but prior to its effective date.

N.J.S.A. 26:6A-7. Effect on insurance and health benefits

Changes in pre-existing criteria for the declaration of death effectuated by the legal recognition of modern neurological criteria shall not in any manner affect, impair or modify the terms of, or rights or obligations created under, any existing policy of health insurance, life insurance or annuity, or governmental benefits program. No health care practitioner or other health care provider, and no health service plan, insurer, or governmental authority, shall deny coverage or exclude from the benefits of service any individual solely because of that individual's personal religious beliefs regarding the application of neurological criteria for declaring death.

N.J.S.A. 26:6A-8. Reporting and monitoring

Pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) the Department of Health and Senior Services shall establish rules, regulations, policies and practices as may be necessary to collect annual reports from health care institutions, to gather additional data as is reasonably necessary, to oversee and evaluate the implementation of this act. The department shall seek to minimize the burdens of record-keeping imposed by these rules, regulations, policies and practices, and shall seek to assure the appropriate confidentiality of patient records.