

Death and dying: In our lawsuit-laden society, here's why we need a more precise definition

As a neurologist who specializes in critical care, I believe we need a clearer, more consistent legal definition of death. The Uniform Determination of Death Act (UDDA), the legal standard for death throughout the U.S., has deficiencies, particularly with respect to the description of death by neurologic criteria, aka brain death. This causes confusion and moral distress for both families and health care teams and can lead to protracted lawsuits about whether a person is alive or dead.

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In 2021 the Uniform Law Commission (ULC) convened a drafting committee to discuss revisions to the UDDA. The purpose of the ULC is to strengthen the federal system by generating consistent rules across states. The commissioners invited participation from more than 100 people with relevant expertise, including representatives from medical, organ procurement and advocacy organizations. Unfortunately, although there was widespread support for revising the UDDA, in the fall of 2023 the commission paused the drafting committee's work indefinitely because of concerns that diverse views about death would prevent the revisions from being widely adopted.

Like most of my medical colleagues who sent comments to the ULC, I favor changing the UDDA to align the law with clinical practice. For example, instead of the controversial phrase "cessation of all functions of the entire brain, including the brainstem," the law should state that brain death declaration requires coma, loss of brain stem reflexes and inability to breathe spontaneously in the setting of an adequate stimulus.

There will always be varying religious, philosophical, ethical and cultural perspectives on death, but society needs a clear legal standard that is consistent with medical practice throughout the country.

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