Definitions of Death

For ISMS definition follow:

1993 House of Delegates Policy, reviewed in 2011. “Death shall have occurred, when an individual 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. Certification of the cause of death must be accomplished by a physician licensed to practice medicine in all its branches, except in those cases subject to the coroner's or medical examiner's investigation.”

For legal definitions in Illinois follow:

Illinois Case Law – In 1983, an Illinois Appellate Court defined what constitutes death in the state of Illinois as follows: Death is deemed to occur when a person “has sustained either: 1) irreversible cessation of total brain function, according to usual and customary standards of medical practice; or 2) irreversible cessation of circulatory and respiratory functions, according to usual and customary standards of medical practice” (In re: Haymer, 115 Ill. App. 3d 349, 450 N.E. 2d 940 (1983)).

Health Care Surrogate Act – In 1991, the Illinois General Assembly defined death as it applies to situations falling under the Health Care Surrogate Act: “‘Death’ means when, according to accepted medical standards, there is: 1) an irreversible cessation of circulatory and respiratory functions, or 2) an irreversible cessation of all functions of the entire brain, including the brain stem” (755 ILCS 40/10).

Illinois Anatomical Gift Act – In 1969, the Illinois General Assembly defined death as it applies to situations falling under the Illinois Anatomical Gift Act: “‘Death’ means, for the purposes of the Act, there is (i) an irreversible cessation of circulatory and respiratory functions; or (ii) an irreversible cessation of all functions of the entire brain, including the brain stem” (755 ILCS 50/1-10).

For certification follow:

Vital Records Act – “Medical certification shall be completed and signed within 48 hours after death by a physician in charge of the patient’s care for the illness or condition which resulted in death, except when the death is subject to the coroner’s or medical examiner’s investigation. In the absence of the physician or with his approval, the medical certificate may be completed and signed by his associate physician, the chief medical officer of the institution in which the death occurred or by the physician who performed an autopsy upon the decedent” (410 ILCS 535/18(2)).

The death will be registered by filing the death certificate within 7 days after such death, and prior to cremation or removal of the body from the state, except when death is subject to investigation by the coroner or medical examiner (410 ILCS 535/18).

“When a death occurs without medical attendance, or when it is otherwise subject to the coroner’s or medical examiner’s investigation, the coroner or medical examiner shall be responsible for the completion of a coroner’s or medical examiner’s certificate of death and shall sign the medical certification within 48 hours after death, except as provided by regulation in special problem cases” (410 ILCS 535/18(3)).
Questions arise whether facility staff may determine death. Some facilities authorize nursing staff to determine death and so note in the chart. However, the official, legal declaration of death is accomplished when the death certificate is filled out by a physician, except in those cases subject to a coroner’s or medical examiner’s investigation.

It should be pointed out that under the Illinois Code of Criminal Procedure, it is stated that in executions “a defendant sentenced to death shall be executed ... until death is pronounced by a coroner who is not a licensed physician” (725 ILCS 5/119-5). The American Medical Association’s (AMA’s) Code of Medical Ethics Opinion 9.7.3 states that a physician must not participate in a legally authorized execution. Further, ISMS policy supports the principle that active physician participation in an execution is a violation of the ethical standards of the profession. Both the AMA and the ISMS policies state that certifying death, provided that the condemned has been declared (pronounced) dead by another person, does not constitute physician participation in an execution.

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