



# STATE OF NEW YORK DEPARTMENT OF HEALTH

Corning Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, NY 12237

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

December 16, 2005

Dear Hospital Administrator:

Recently, the Department undertook a review of the Voluntary Consensus Guidelines for Determination of Death. Enclosed please find the resulting revisions to the guidelines.

As you are aware, guidelines for the determination of brain death, based on irreversible cessation of brain functions, have existed in New York State since 1987. These guidelines were developed to support a 1987 regulatory change (10 NYCRR §400.16), which establishes that a person is dead when the individual has suffered either irreversible cessation of respiratory and circulatory functions or irreversible cessation of all functions of the entire brain, including the brain stem. In 1995, the Department held a one-day consensus conference with the goal of clarifying and standardizing the process of brain death determination. The resulting guidelines from that conference were distributed to all New York State hospitals in 1997.

Since that time, many interested parties have suggested updates and revisions to the guidelines and some have expressed concerns about perceived variations in the implementation of the existing guidelines in New York State hospitals. As a result, the Department undertook a review of the guidelines and engaged in a consensus-building process that included extensive discussions with a Brain Death Guideline Panel convened by the Department in 2004 and input from the New York State Task Force on Life and the Law in 2005. During the revision process, the Department also worked to ensure all changes are consistent with the most recent version of the American Academy of Neurology (AAN) Guidelines for determining brain death.

The purpose of these guidelines is to give health care providers information about New York State requirements for determining brain death, increase knowledge among health care practitioners about the clinical evaluation of brain death, and reduce the potential for variations in brain death determination policies and practices among facilities and practitioners within New York State. The Department of Health hopes that the issuance of these guidelines will not only help educate health care providers regarding such determinations, but also will increase the public's confidence that such determinations are made after a thorough and careful evaluation in accordance with accepted medical standards.

The major differences between the 1995 guidelines and these guidelines is that this new version clarifies responsibilities for facilities and physicians, and presents clear process steps for the determination of brain death. These revised guidelines offer additional information about the role of the second physician in certifying brain death before organ donation. They also contain updated and more extensive information on confirmatory testing; a new clinical checklist is provided as well.

Please review your current policies for determination of death against these guidelines and the existing regulation. If you have questions you may contact Kimberly Valente at 518-402-0930 or by e-mail - [kav02@health.state.ny.us](mailto:kav02@health.state.ny.us).

Sincerely,

David Wollner  
Director  
Office of Health Systems Management

Enclosure