

# VIRGINIA ACTS OF ASSEMBLY -- 1996 RECONVENED SESSION

## CHAPTER 1028

*An Act to amend and reenact § 54.1-2972 of the Code of Virginia, relating to determinations of death.*

[H 1355]

Approved April 17, 1996

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2972 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2972. When person deemed medically and legally dead.

A. A person shall be medically and legally dead if:

1. In the opinion of a physician duly authorized to practice medicine in this Commonwealth, based on the ordinary standards of medical practice, there is the absence of spontaneous respiratory and spontaneous cardiac functions and, because of the disease or condition which directly or indirectly caused these functions to cease, or because of the passage of time since these functions ceased, attempts at resuscitation would not, in the opinion of such physician, be successful in restoring spontaneous life-sustaining functions, and, in such event, death shall be deemed to have occurred at the time these functions ceased; or

2. In the opinion of a physician, who shall be duly licensed and a specialist in the field of neurology, neurosurgery, or electroencephalography, when based on the ordinary standards of medical practice, there is the absence of spontaneous brain functions and spontaneous respiratory functions and, in the opinion of another physician and such neurospecialist, based on the ordinary standards of medical practice and considering the absence of spontaneous brain functions and spontaneous respiratory functions and the patient's medical record, further attempts at resuscitation or continued supportive maintenance would not be successful in restoring such spontaneous functions, and, in such event, death shall be deemed to have occurred at the time when these conditions first coincide; or

3. *In the opinion of a registered nurse employed in this Commonwealth by a home health organization as defined in § 32.1-162.7 or by a hospice as defined in § 32.1-162.1 and directly involved in the care of a patient, death has occurred and the following criteria are satisfied: (i) the patient is under the care of a physician when his death occurs; (ii) the patient's death is anticipated; (iii) the physician is unable to be present within a reasonable period of time to pronounce death; and (iv) there is a Do Not Resuscitate Order pursuant to § 54.1-2987.1. The nurse shall have the authority to pronounce death in accordance with such procedural regulations, if any, as may be promulgated by the Board of Medicine; however, if the circumstances of the death are not anticipated or the death requires an investigation by a medical examiner, the nurse shall notify the chief medical examiner of the death and the body shall not be released to the funeral director.*

*This subdivision shall not authorize a nurse to pronounce the cause of death. Determination of cause of death shall continue to be the responsibility of the attending physician. Further, this subdivision shall not be construed to impose any obligation to carry out the functions of this subdivision.*

*This subdivision shall not relieve any registered nurse from any civil or criminal liability that might otherwise be incurred for failure to follow statutes or Board of Nursing regulations.*

B. Death, as defined in subdivision A 2 hereof, shall be pronounced by one of the two physicians and recorded in the patient's medical record and attested by the other physician. One of two physicians pronouncing or attesting to brain death may be the attending physician regardless of his specialty so long as at least one of the physicians is a neurospecialist.

C. ~~Either of these~~ *The alternative definitions of death provided in this section may be utilized for all purposes in the Commonwealth, including the trial of civil and criminal cases.*