



HENRY McMASTER  
ATTORNEY GENERAL

September 25, 2008

The Honorable Gary Watts  
Coroner, Richland County  
1725 Taylor Street  
Columbia, South Carolina 29201

Dear Coroner Watts:

In a letter to this office you requested an opinion regarding the issue of determining the time of death of patients who are being sustained on life support after being declared brain dead. As referenced by you, S.C. Code Ann. § 44-43-460 provides:

[a]n individual who has sustained irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A determination of death must be made in accordance with accepted medical standards.

You indicated that a coroner is sometimes called to investigate these cases if a death is suspicious or unnatural.

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

As set forth you have requested an opinion regarding the issue of determining the time of death of patients who are being sustained on life support after being declared brain dead. Section

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44-43-460 clearly provides that an individual is considered dead when that individual "has sustained irreversible cessation of circulatory and respiratory functions or irreversible cessation of all functions of the entire brain, including the brain stem." Of course, as specified in the statute, the determination of death "must be made in accordance with accepted medical standards." In the opinion of this office, a coroner, in the appropriate circumstances, would have jurisdiction at the time of brain death in which to carry out his official responsibilities consistent with the mandates of statutory and regulatory law and use the time of brain death on all appropriate paperwork. See, e.g., S.C. Code Ann. § 17-5-600 (permit required from coroner for cremation); DHEC Regulation 61-19, Section 23 (permit governing the disposal or transportation of dead human bodies).

If there are any questions, please advise.

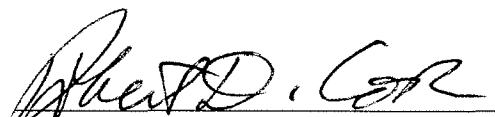
Sincerely,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General