

change your mind, you not only have to revoke your prior anatomical gift, but also issue a formal refusal. Isn't this close to an *opt-out* or *presumed consent* system?

Such a system presumes fulfillment of all legal requirements for consent to take organs unless a person has opted out by a formal witnessed document of refusal. Eight European countries have a presumed consent system. Such a bill has been introduced in Delaware, but has not been acted upon yet.

**The Revised Act has language that does not protect the rights of prospective donors.** In trying so hard to facilitate obtaining suitable organs for transplantation, the Act's drafters have overridden the donor's right to fully and explicitly informed consent.

The Revised Act does not protect the lives of prospective donors. It does not list or define "measures necessary to ensure the suitability of an organ for transplantation or therapy." This is of concern because the Act states that "unless the donor's declaration (living will) expressly provides for the contrary, the proposed law "prohibits" these measures from being withheld or withdrawn from a prospective donor.

A "prospective donor" may be someone who is "near death" and yet **the organ procurement medical team can initiate measures that may actually do harm to the still living prospective donor**—such as increasing fluids to a head-injured patient, administering Heparin and Regitine, etc., in order to "ensure the medical suitability of an organ." **It is absolutely appalling to think that, once a person is identified as a potential donor, organs for transplant become more important than the person to whom they belong!**

Organs for transplantation are primarily obtained from those declared "brain dead." This is labeled **Donation by Brain Death (DBD)**. These are patients who have disease or injury to their brain manifested by altered brain functioning. Typically, a patient who has been declared "brain dead" has a beating heart, normal blood pressure and respiration supported by a ventilator. When cut into, he/she moves, squirms and grimaces if a paralyzing drug or anesthetic is not administered first. These are all signs of life.

The Harvard Criteria (on brain death) was published in 1968. Thirty more different sets of criteria were published by 1978. Since then, many more have been published. There is no general agreement as to which set of criteria should be used to declare a person "brain dead." Consequently, **a person could be declared dead**

**by one set, but still living by other sets!** Every set of criteria includes an Apnea Test. ("Apnea" means the absence of breathing.) This test is done by taking away the life-supporting ventilator for up to 10 minutes. **This is medical suffocation.** The patient can only get worse with this test. This test is commonly done without requesting permission.

If all this isn't enough to draw attention, when a patient does not fulfill any of the differing sets of criteria for determining "brain death," but the desire is to get his/her organs, a Do-Not-Resuscitate (DNR) order is obtained and the ventilator is removed. When the patient is without a pulse (but not without a heart beat) for as short a time as 75 seconds, this becomes the signal to take the organs. This is labeled **Donation by Cardiac Death (DCD)**.

*Yes, much is being done to get **your** organs.* For an organ to be suitable for transplantation, it must be healthy and it must come from a living person. **Please wake up! Organ excision does not benefit the person from whom the organs are taken. IT CAUSES HIS OR HER DEATH!**

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#### **WANT TO LEARN MORE?**

Articles by Dr. Byrne and his colleagues are available online at:

**The Life Guardian Foundation:** [www.thelifeguardian.org](http://www.thelifeguardian.org)

**The International Foundation for Genetic Research:**

[www.michaelfund.org](http://www.michaelfund.org)

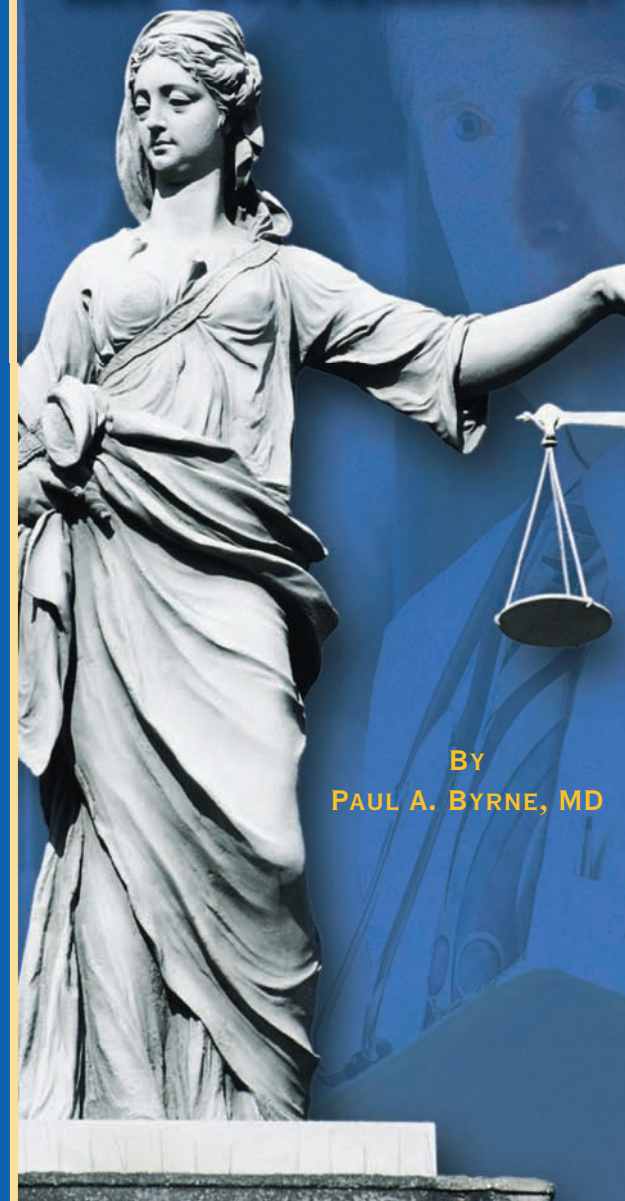
**Life is Worth Living, Inc.:** [www.lifeisworthliving.com](http://www.lifeisworthliving.com)

**American Life League:** [www.all.org](http://www.all.org)

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# Do Your Organs Belong to the Government?



BY  
PAUL A. BYRNE, MD

Recent news reports of responses in persons declared “brain dead” should have alerted everyone that **“brain death” is not true death**. These observed responses prevented organ transplantation plans from going forward. Zack Dunlap later reported that he heard discussions of his death, but could not respond. Val Thomas had flat brain waves for 17 hours before her response was observed. Such cases ought to be of grave concern to every citizen of the United States of America, and to the rest of the world.

We are continually bombarded with ads to be an organ donor. We are told that we are giving the “gift of life” in organ donation. We are led to believe that organs are taken for transplantation only after true death. We are seldom, if ever, made aware that after true death the heart, liver, and other vital organs are not suitable for transplantation.

True death is when the soul separates from the body. When the person is living, the soul certainly has not separated from the body. The heart, liver and other vital organs are suitable for transplantation only when there is circulation and respiration, albeit supported by a ventilator. After true death the ventilator cannot support circulation and respiration. Vital organs from a corpse are useless for transplantation. The Federal Government is much involved with obtaining organs for transplantation.

During the Clinton Presidency, the Secretary of Health and Human Services issued an edict that when death is imminent all medical records must be sent to the Organ Procurement Organization (OPO) to determine suitability of the person’s organs for transplantation. This edict has been updated and placed into law within the HIPAA Regulations (Health Insurance Portability and Accountability Act of 1996). While many believe HIPAA protects personal privacy, there is a list of 14 reasons why the Federal Government can obtain and use your medical information **without your permission**. Organ donation is one of them.

If the OPO determines that your organs are suitable, a “designated requestor” is sent to the hospital to seek permission from relatives, close friends or a government official. This is done under the Uniform Anatomical Gift Act (UAGA) that was passed in

all 50 States in 1968. In 2006, the UAGA was revised. The Revised UAGA has already been placed into statute in 35 states and has been introduced in other states.

This Revised Act makes **everyone** a “prospective donor;” meaning it is presumed that you intend to be an organ donor **unless you have signed a refusal. Whenever attempts are made to add or delete words from an existing statute, someone has a reason for doing so.**

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Previously the UAGA required you to be “of sound mind” to be an organ donor. That requirement has been removed. A person who gives any sort of medical or legal consent ought to be “of sound mind” in order for the consent to be valid. So, why drop “sound mind” from the existing Act? Could the drafters of the Revised UAGA be concerned that a person under the influence of sedatives or with a brain injury might not be considered “of sound mind,” yet they still want to be able to get his/her signature or verbal consent to organ donation?

The Revised UAGA permits 15 ½ year old persons (in some states, 14 year old persons) to sign to be organ donors when they apply for a learner’s permit to drive. This is a time when a teenager might be easily influenced,

even intimidated. Parents can override a minor child’s consent or refusal to be a donor prior to age 18. **What is the purpose of permitting a child to sign or refuse to give an anatomical gift if it can be overridden?**

What does it mean “if a parent is reasonably available?” Will the search for a parent of a child who has consented to be a donor be as diligent as the search for a parent of a child who has refused?

The Revised UAGA’s Section 8 takes advantage of the fact that previous decisions of a person (who is currently unable to communicate) are open to interpretation. **The Act ensures that questions about a person’s intentions are decided in favor of donation.** For example, a donor’s revocation of a gift of a body part is not to be construed as a refusal for others to make gifts of the donor’s other body parts.

Likewise, a donor’s gift of one part is not to be construed as a refusal that would bar others from making gifts of other parts, absent the donor’s express contrary intent. Section 8 firmly states that a donor’s decision to make an anatomical gift is to be honored and is not subject to change by others. Thus Section 8 **takes away from families the right or authority to consent to, amend or revoke anatomical donations made by donors during their lifetimes, even though alert relatives might make different decisions based on current circumstances and complete information.**

The Revised UAGA expands the prioritized list of “classes of persons” who can make an anatomical gift of the body or body parts of a so-called “decedent” if the decedent had neither consented nor refused to be a donor. The list now includes the decedent’s health care agent, adult grandchildren and close friends. It descends from the highest class of persons to the next and so forth when a search is done for someone on the list who is “reasonably available.”

The Act states, “Reasonably available means able to be contacted by a procurement organization without undue effort.” Undue effort is not defined. Could it mean that not getting a response to a telephone call is sufficient to go to the next class of persons?

**The Revised Act states that a revocation of an anatomical gift “does not equal a refusal.”** So, if you