



Ethical and Legal Issues in Neurology: Chapter 33. The definition and criterion of death (Handbook of Clinical Neurology)

James L. Bernat

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The definition and criterion of death have been rendered ambiguous by developments in organ support technology, particularly the positive-pressure ventilator and vasopressor medications, that uncouple the unitary loss of vital functions in death and create cases in which the brain has been destroyed while circulation and ventilation can be supported. Developing a biophilosophic analysis of the meaning of death before physicians can declare it requires four sequential steps: (1) agreement on the paradigm conditions that frame the analysis and clarify the task; (2) identifying the definition of death, which makes explicit the meaning of death that is accepted in our consensual usage of the term but that has become obscured by technology; (3) identifying the criterion of death that shows that the definition has been fulfilled, and that can be incorporated into a death statute; and (4) devising bedside tests of death for physicians to perform to satisfy the criterion. Although there is a strong consensus on death determination medical standards in countries around the world that has been enshrined into laws, and accepted by most societies and religions, there remains an active dispute among scholars on the precise definition and criterion of death.

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