

Determination of Death

Rabbi Moshe Feinstein

Dear Assemblyman Miller:

I have reviewed once again all the data relevant to Assembly Bill 4140/A, a bill in relation to determination of death.

It is my carefully considered opinion that:

- 1) This bill as written is and has always been unacceptable.
- 2) Any bill defining death must contain the following clarification as I wrote in my responsum: “The sole criterion of death is the total cessation of spontaneous respiration.”

In a patient presenting the clinical picture of death, i.e., no signs of life such as movement of response to stimuli, the total cessation of independent respiration, is an absolute proof that death had occurred. This interruption of spontaneous breathing must be for a sufficient length of time for resuscitation to be impossible (approximately 15 min.).

If such a “clinically dead” patient is on a respirator **it is forbidden to interrupt the respirator**. However, when the respirator requires servicing, the services may be withheld while the patient is carefully and continuously monitored to detect any signs of independent breathing no matter how feeble. If such breathing motions do not occur, it is a certainty that he is dead. If they do occur the respirator shall be immediately restarted.

I must emphasize that any bill which does not contain these criteria is unacceptable.

- 3) In the event that these specific requirements will not be incorporated in your bill, I strongly endorse and support the “religious exemption” clause in the Governor’s Program Bill, a concept which is in keeping with religious rights and social ethics.

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