SENATE, No. 2756

STATE OF NEW JERSEY

215th LEGISLATURE

INTRODUCED MAY 13, 2013

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

SYNOPSIS
Removes statutory authority of DOH and Board of Medical Examiners over medical standards governing declarations of death upon the basis of neurological criteria.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning declarations of death upon the basis of neurological criteria and amending P.L.1991, c.90.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 4 of P.L.1991, c.90 (C.26:6A-4) is amended to read as follows:
4. a. A declaration of death upon the basis of neurological criteria pursuant to section 3 of this act shall be made by a licensed physician professionally qualified by specialty or expertise, based upon the exercise of the physician’s best medical judgment and in accordance with currently accepted medical standards [and additional requirements, including appropriate confirmatory tests, as are provided pursuant to this act].

b. Subject to the provisions of this act, the Department of Health, jointly with the State Board of Medical Examiners, shall adopt, and from time to time revise, regulations setting forth [(1)] requirements, by specialty or expertise, for physicians authorized to declare death upon the basis of neurological criteria; and (2) currently accepted medical standards, including criteria, tests and procedures, to govern declarations of death upon the basis of neurological criteria. The [initial] regulations shall [be issued within 120 days of the enactment of this act] not require the use of any specific test or procedure in the declaration of death upon the basis of neurological criteria.

c. If the individual to be declared dead upon the basis of neurological criteria is or may be an organ donor, the physician who makes the declaration that death has occurred shall not be the organ transplant surgeon, the attending physician of the organ recipient, [nor] or otherwise an individual subject to a potentially significant conflict of interest relating to procedures for organ procurement.

d. If death is to be declared upon the basis of neurological criteria, the time of death shall be upon the conclusion of definitive clinical examinations and any confirmation necessary to determine the irreversible cessation of all functions of the entire brain, including the brain stem. (cf: P.L.1991, c.90, s.4)

2. This act shall take effect on the first day of the third month next following the date of enactment, but the Department of Health, jointly with the State Board of Medical Examiners, may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
STATEMENT

This bill amends section 4 of P.L.1991, c.90 (C.26:6A-4) to remove the statutory authority of the Department of Health (DOH) and the State Board of Medical Examiners (BME) over medical standards governing declarations of death upon the basis of neurological criteria.

The bill requires that a declaration of death upon the basis of neurological criteria be made by a licensed physician professionally qualified by specialty or expertise, based upon the exercise of the physician’s best medical judgment and in accordance with currently accepted medical standards.

The bill deletes the statutory provisions that authorize joint DOH/BME regulations setting forth currently accepted medical standards (including criteria, tests, and procedures) to govern declarations of death upon the basis of neurological criteria. Furthermore, the bill explicitly prohibits the joint DOH/BME regulations, concerning the declaration of death upon the basis of neurological criteria, from requiring the use of any specific test or procedure in the declaration of death upon the basis of such criteria.

The bill does retain the current statutory authority of DOH and BME to jointly adopt and periodically revise regulations setting forth requirements, by specialty or expertise, for physicians authorized to declare death upon the basis of neurological criteria.

The bill takes effect on the first day of the third month following the date of enactment, but authorizes DOH, jointly with BME, to take prior administrative action as necessary for its implementation.