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:

[an] 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.


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
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