

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 850 Session of 2013

INTRODUCED BY GREENLEAF, STACK, FARNESE, FONTANA, BREWSTER, ERICKSON, RAFFERTY, MENSCH, COSTA, HUGHES, BAKER, SOLOBAY, BROWNE, WASHINGTON, FERLO, SCARNATI, VULAKOVICH, SMITH, TARTAGLIONE, BLAKE, ALLOWAY, LEACH, BOSCOLA, WOZNIAK, SCHWANK, ARGALL, BRUBAKER AND SMUCKER, APRIL 16, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, SEPTEMBER 15, 2014

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 definitions, for prospective donors, for prospective donees,
4 for procedure, for amendment or revocation, for rights and
5 duties at death, for requests, for identification and
6 authorization, for the Governor Robert P. Casey Memorial
7 Organ and Tissue Donation Awareness Trust Fund, for
8 confidentiality and for prohibitions; providing for promotion
9 of donations through a registry, for effect on advance health
10 care directive, for facilitation of gifts during
11 investigation, for collaboration, for information, for
12 physician and nurse training, for uniformity and for
13 electronic signatures; and further providing for corneal
14 transplants.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The definitions of "advisory committee," "bank or
18 storage facility," "decedent" and "organ procurement
19 organization" in section 8601 of Title 20 of the Pennsylvania
20 Consolidated Statutes are amended and the section is amended by
21 adding definitions to read:

22 § 8601. Definitions.

1 The following words and phrases when used in this chapter
2 shall have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 * * *

5 "Adult." An individual who is at least 18 years of age.

6 "Advance health care directive." As defined in section 5422
7 (relating to definitions).

8 "Advisory committee." The Organ and Tissue Donation Advisory
9 Committee established under section 8622 (relating to The
10 Governor Robert P. Casey Memorial Organ and Tissue Donation
11 Awareness Trust Fund).

12 "Agent." Any of the following:

13 (1) An individual authorized to make health care
14 decisions on ~~another's~~ A PRINCIPAL'S behalf under Subchapter <--
15 C of Chapter 54 (relating to health care agents and
16 representatives).

17 (2) An individual expressly authorized to make an
18 anatomical gift on ~~another's~~ A PRINCIPAL'S behalf by any <--
19 other record signed by the ~~individual giving the~~ <--
20 authorization PRINCIPAL. <--

21 "Anatomical gift." A donation of all or part of a human body
22 to take effect after the donor's death for the purpose of
23 transplantation, therapy, research or education.

24 ["Bank or storage facility." A facility licensed, accredited
25 or approved under the laws of any state for storage of human
26 bodies or parts thereof.]

27 * * *

28 "Decedent." [A deceased individual, including a stillborn
29 infant or fetus.] A deceased individual whose body or part is or
30 may be the source of an anatomical gift. The term includes a

1 stillborn infant and, subject to restrictions imposed by other
2 laws, a fetus. The term does not include a blastocyst, embryo or
3 fetus that is the subject of an induced abortion.

4 "Document of gift." A donor card or other record used to
5 make, amend or revoke an anatomical gift. The term includes a
6 statement or symbol on a driver's license or identification card
7 or in a donor registry.

8 "Donate Life PA Registry." That subset of persons in the
9 Department of Transportation's driver's license and photo
10 identification card database who have elected to include the
11 donor designation on their record. This term shall not refer to
12 a separate database.

13 * * *

14 "Donor registry." A database which contains records of
15 anatomical gifts. The term includes the Donate Life PA Registry.

16 "Eye bank." A person that is licensed, accredited or
17 regulated under Federal or State law to engage in the recovery,
18 screening, testing, processing, storage or distribution of human
19 eyes or portions of human eyes.

20 * * *

21 "Hospital administrator." Any individual appointed by a
22 hospital's governing body to act on its behalf in the overall
23 management of the hospital. The term includes a designee of the
24 individual.

25 "Know." To have actual knowledge. When the word "known" is
26 used as an adjective to modify a term, the meaning is that there
27 is actual knowledge about the modified term.

28 "Minor." An individual who is under 18 years of age.

29 "ORGAN." A HUMAN ORGAN AS DEFINED IN 42 CFR 121.2 (RELATING <--
30 TO DEFINITIONS).

1 "Organ procurement organization." An organization [that
2 meets the requirements of section 371 of the Public Health
3 Service Act (58 Stat. 682, 42 U.S.C. § 273)] designated for the
4 region by the Secretary of Health and Human Services as an organ
5 procurement organization.

6 * * *

7 "Person authorized or obligated to dispose of a decedent's
8 body." Any of the following, without regard to order of
9 priority:

10 (1) A coroner or medical examiner having jurisdiction
11 over the decedent's body.

12 (2) A warden or director of a correctional facility
13 where the decedent was incarcerated.

14 (3) An administrator or official of a social service
15 agency having a relationship with the decedent.

16 (4) An individual or official of an entity that:

17 (i) is authorized to make decisions with respect to
18 the disposition, transportation, transfer, burial or
19 cremation of a decedent;

20 (ii) is under an obligation to make decisions with
21 respect to the disposition, transportation, transfer,
22 burial or cremation of a decedent; or

23 (iii) voluntarily assumes responsibility for
24 decisions with respect to the disposition,
25 transportation, transfer, burial or cremation of a
26 decedent.

27 * * *

28 "PROCUREMENT ORGANIZATION." AN ORGAN PROCUREMENT
29 ORGANIZATION, EYE BANK OR TISSUE BANK.

<--

30 "Program coordinator." The Organ and Tissue Donation

1 Awareness Program Coordinator established in section 8622
2 (relating to The Governor Robert P. Casey Memorial Organ and
3 Tissue Donation Awareness Trust Fund).

4 "Prospective donor." A person who is dead or whose death is
5 imminent and has been determined by an organ procurement
6 organization to have a part that could be medically suitable for
7 transplantation, therapy, research or education.

8 "Reasonably available." Able to be contacted by a
9 procurement organization with reasonable effort and willing and
10 able to ~~act~~ EXERCISE THE DECISION TO REFUSE OR TO AUTHORIZE <--
11 ANATOMICAL DONATION in a timely manner consistent with existing
12 medical criteria necessary to make an anatomical gift.

13 "Recipient." An individual into whose body a decedent's part
14 has been or is intended to be transplanted.

15 "Record." Information that is inscribed on a tangible medium
16 or that is stored in an electronic or other medium and is
17 retrievable in perceivable form.

18 * * *

19 "TISSUE." A PORTION OF THE HUMAN BODY OTHER THAN AN ORGAN OR <--
20 AN EYE. THE TERM DOES NOT INCLUDE BLOOD, UNLESS THE BLOOD IS
21 DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.

22 "Tissue bank." A person that is licensed, accredited or
23 regulated under Federal or State law to engage in the recovery,
24 screening, testing, processing, storage or distribution of
25 tissue.

26 * * *

27 Section 2. Sections 8611(a), (b) and (c) of Title 20 are
28 amended to read:

29 § 8611. Persons who may execute anatomical gift.

30 (a) General rule.--Any individual of sound mind and 18 years

1 of age or more may give all or any part of his body for any
2 purpose specified in section 8612 (relating to persons who may
3 become donees; purposes for which anatomical gifts may be made),
4 the gift to take effect upon death. [Any] An agent [acting under
5 a power of attorney which authorizes the agent to make
6 anatomical gifts] may effectuate a gift for any purpose
7 specified in section 8612. Any individual who is a minor and 16
8 years of age or older may effectuate a gift for any purpose
9 specified in section 8612, provided parental or guardian consent
10 is deemed given. Parental or guardian consent shall be noted on
11 the minor's donor card, application for the donor's learner's
12 permit or driver's license or other document of gift. A gift of
13 the whole body shall be invalid unless made in writing at least
14 15 days prior to the date of death or consent is obtained from
15 the legal next of kin. Where there are adult children of the
16 deceased who are not children of the surviving spouse, their
17 consent shall also be required for a gift of the whole body for
18 anatomical study.

19 (b) [Others entitled] Entitled to donate anatomy of
20 decedent.--Any of the following persons who are reasonably
21 available, in order of priority stated, when persons in prior
22 classes are not reasonably available at the time of death, and
23 in the absence of [actual notice of contrary indications] known
24 objections by the decedent or [actual notice of opposition] by a
25 member of [the same or] a prior class, may give all or any part
26 of the decedent's body for any purpose specified in section
27 8612:

- 28 [(1) The spouse.
- 29 (2) An adult son or daughter.
- 30 (3) Either parent.

1 (4) An adult brother or sister.

2 (5) A guardian of the person of the decedent at the time
3 of his death.

4 (6) Any other person authorized or under obligation to
5 dispose of the body.]

6 (1) An agent of the decedent at the time of death who
7 could have made an anatomical gift under subsection (a).

8 (2) The spouse of the decedent, UNLESS AN ACTION FOR <--
9 DIVORCE IS PENDING.

10 (3) An adult child of the decedent.

11 (4) A parent of the decedent.

12 (5) An adult sibling of the decedent.

13 (6) A guardian of the person of the decedent.

14 (7) An adult grandchild of the decedent.

15 (8) A grandparent of the decedent.

16 ~~(9) A person that exhibited special care and concern for~~ <--
17 ~~the decedent.~~

18 (9) ANY OTHER PERSON RELATED TO THE DECEDENT BY BLOOD, <--
19 MARRIAGE OR ADOPTION OR A PERSON WITH AN ESTABLISHED
20 RELATIONSHIP WITH, AND WHO EXHIBITED SPECIAL CARE AND CONCERN
21 FOR, THE DECEDENT.

22 (10) A hospital administrator.

23 (11) A person authorized or obligated to dispose of the
24 decedent's body.

25 (c) Donee not to accept in certain cases.--[If the]

26 (1) The donee may not accept a gift under any of the
27 following circumstances:

28 (i) The donee [has actual notice of contrary
29 indications] knows of an objection by the decedent [or].

30 (ii) The donee knows that a gift by a member of a

1 class is opposed by a reasonably available member of [the
2 same or] a prior class[, the donee shall not accept the
3 gift].

4 (iii) The donee knows that a gift by a member of a
5 class is opposed by at least 50% of the reasonably
6 available members of the same class.

7 (2) The persons authorized by subsection (b) may make
8 the gift after or immediately before death.

9 * * *

10 Section 2.1. Section 8612 of Title 20 is amended to read:

11 § 8612. Persons who may become donees; purposes for which
12 anatomical gifts may be made.

13 [The following persons may become donees of gifts of bodies
14 or parts thereof for any of the purposes stated:

15 (1) Any hospital, surgeon or physician for medical or
16 dental education, research, advancement of medical or dental
17 science, therapy or transplantation.

18 (2) Any accredited medical or dental school, college or
19 university for education, research, advancement of medical or
20 dental science or therapy.

21 (3) Any bank or storage facility for medical or dental
22 education, research, advancement of medical or dental
23 science, therapy or transplantation.

24 (4) Any specified individual for therapy or
25 transplantation needed by him.

26 (5) The board.]

27 (a) Donees.--An anatomical gift may be made to any of the
28 following persons named in the document of gift:

29 (1) If for research or education, any of the following:

30 (i) A hospital.

1 (ii) An accredited medical school, dental school,
2 college or university.

3 (iii) The board.

4 (iv) An organ procurement organization.

5 (v) Any other appropriate person as permitted by
6 law.

7 (2) Subject to subsection (b), an individual designated
8 by the person making the anatomical gift if the individual is
9 the recipient of the part.

10 (3) An eye bank or tissue bank.

11 (4) An organ procurement organization.

12 (b) Directed donation.--If an anatomical gift to an
13 individual under subsection (a)(2) cannot be transplanted into
14 the individual, the part shall pass in accordance with
15 subsection (c) in the absence of a known objection IF AUTHORIZED <--
16 by the person making the anatomical gift.

17 (c) Organ for transplant or therapy.--An anatomical gift of
18 an organ for transplantation or therapy, other than an
19 anatomical gift under subsection (a)(2), shall pass to the organ
20 procurement organization.

21 (d) Default.--If the intended purpose or recipient of an
22 anatomical gift is not known, the following shall apply:

23 (1) If the part is an eye, the gift shall pass to the
24 appropriate eye bank.

25 (2) If the part is tissue, the gift shall pass to the
26 appropriate tissue bank.

27 (3) If the part is an organ, the gift shall pass to the
28 appropriate organ procurement organization.

29 (4) If the gift is of the decedent's entire body, the
30 gift shall pass to the board.

1 (e) Multiple purposes.--If there is more than one purpose of
2 an anatomical gift set forth in the document of gift but the
3 purposes are not set forth in any priority, the gift shall be
4 used for transplantation or therapy, if suitable and enumerated
5 in the document of gift, and shall pass to the appropriate organ
6 procurement organization. If the gift cannot be used for
7 transplantation or therapy, the gift may be used for other
8 lawful purposes enumerated in the document of gift.

9 (f) Unspecified purpose.--If an anatomical gift is made in a
10 document of gift that does not name a person described in
11 subsection (a) and does not identify the purpose of the gift,
12 the gift may be used only for transplantation or therapy, and
13 the gift shall pass in accordance with subsection (d).

14 (g) Effect of gift.--An anatomical gift of a part is neither
15 a refusal to give another part nor a limitation on the making of
16 an anatomical gift of another part or making an anatomical gift
17 for another purpose at a later time by the donor or another
18 person.

19 Section 2.2. Section 8613(b), (d) and (e) of Title 20 are
20 amended and the section is amended by adding subsections to
21 read:

22 § 8613. Manner of executing anatomical gifts.

23 * * *

24 (b) Gifts by other documents.--[A gift of all or part of the
25 body under section 8611(a) may also be made by document other
26 than a will.] An anatomical gift may be made by other document,
27 including by authorizing a statement or symbol indicating that
28 the donor has made an anatomical gift, which shall be recorded
29 in a donor registry or on the donor's driver's license or
30 identification card. The gift becomes effective upon the death

1 of the donor. The document, which may be a card designed to be
2 carried on the person, must be signed by the donor [in the
3 presence of two witnesses who must sign the document in his
4 presence]. If the donor is mentally competent to signify his
5 desire to sign the document but is physically unable to do so,
6 the document may be signed for him by another at his direction
7 and in his presence in the presence of two witnesses who must
8 sign the document in his presence. Delivery of the document of
9 gift during the donor's lifetime is not necessary to make the
10 gift valid. If an anatomical gift is indicated on a driver's
11 license or an identification card, the anatomical gift is not
12 invalidated by revocation, suspension, expiration or
13 cancellation of:

14 (1) the driver's license under 75 Pa.C.S. Ch. 15
15 (relating to licensing of drivers); or

16 (2) the identification card by the Department of
17 Transportation.

18 * * *

19 [(d) Designation of person to carry out procedures.--
20 Notwithstanding section 8616(b) (relating to rights and duties
21 at death), the donor may designate in his will, card or other
22 document of gift the surgeon or physician to carry out the
23 appropriate procedures. In the absence of a designation or if
24 the designee is not available, the donee or other person
25 authorized to accept the gift may employ or authorize any
26 surgeon or physician for the purpose, or, in the case of a gift
27 of eyes, he may employ or authorize a person who is a funeral
28 director licensed by the State Board of Funeral Directors, an
29 eye bank technician or medical student, if the person has
30 successfully completed a course in eye enucleation approved by

1 the State Board of Medical Education and Licensure, or an eye
2 bank technician or medical student trained under a program in
3 the sterile technique for eye enucleation approved by the State
4 Board of Medical Education and Licensure to enucleate eyes for
5 an eye bank for the gift after certification of death by a
6 physician. A qualified funeral director, eye bank technician or
7 medical student acting in accordance with the terms of this
8 subsection shall not have any liability, civil or criminal, for
9 the eye enucleation.]

10 (d.1) Reliance.--A person may rely on a document of gift or
11 amendment thereto as being valid unless that person knows that
12 it was not validly executed or was revoked.

13 (e) Consent not necessary.--[If a donor card, donor driver's
14 license, living will, durable power of attorney or other
15 document of gift evidencing a gift of organs or tissue has been
16 executed,] A donor's gift of all or any part of the individual's
17 body, including a designation in a registry on a driver's
18 license or identification card, donor card, advance health care
19 directive, will or other document of gift, may not be revoked by
20 the next-of-kin or other persons identified in section 8611(b).
21 The consent of any person [designated in section 8611(b)] at the
22 time of the donor's death or immediately thereafter is not
23 necessary to render the gift valid and effective.

24 * * *

25 (g) Validity.--A document of gift is valid if executed in
26 accordance with:

27 (1) this chapter;

28 (2) the law of the state or country where it was
29 executed; or

30 (3) the law of the state or country where, at the time

1 of execution of the document of gift, the person making the
2 anatomical gift:

3 (i) is domiciled;

4 (ii) has a place of residence; or

5 (iii) is a citizen.

6 (h) Choice of law.--If a document of gift is valid under
7 this section, the law of this Commonwealth governs
8 interpretation of the document.

9 (i) Refusals.--An individual may refuse to make an
10 anatomical gift of the individual's body or part by a writing or
11 record signed in the same manner as a document of gift or any
12 other writing or record used to identify the individual as
13 refusing to make an anatomical gift. An individual's unrevoked
14 refusal to make an anatomical gift of the individual's body or
15 part bars all other persons from making an anatomical gift of
16 the individual's body or part.

17 Section 3. Section 8615 of Title 20 is amended by adding
18 subsections to read:

19 § 8615. Amendment or revocation of gift.

20 * * *

21 (d) Effectiveness of revocation.--A revocation made under
22 this chapter shall take effect if, before an incision has been
23 made to remove a part from the donor's body or before invasive
24 procedures have begun to prepare the recipient, the applicable
25 organ procurement organization, transplant hospital or physician
26 or technician knows of the revocation.

27 (e) Revocation not a refusal.--A revocation made under this
28 chapter shall not be considered a known objection or refusal to
29 make a gift of one's body or a part of one's body nor a
30 prohibition against a person described in section 8611(b)

1 (relating to persons who may execute anatomical gift) making
2 such gift.

3 Section 4. Sections 8616(b), (c) and (d), 8617, 8619, 8621,
4 8622, 8623 and 8624 of Title 20 are amended to read:

5 § 8616. Rights and duties at death.

6 * * *

7 (b) Physicians.--The time of death shall be determined by a
8 physician who tends the donor at his death or, if none, the
9 physician who certifies the death. [The physician or person who
10 certifies death or any of his professional partners or
11 associates shall not participate in the procedures for removing
12 or transplanting a part.]

13 (c) Certain liability limited.--A person who acts in good
14 faith in accordance with the terms of this subchapter or with
15 the anatomical gift laws of another state or a foreign country
16 is not liable for damages in any civil action or subject to
17 prosecution in any criminal proceeding for his act. Neither a
18 person making an anatomical gift nor a donor's estate shall be
19 liable for injury or damage which results from the making or use
20 of the anatomical gift. In determining whether an anatomical
21 gift has been made, amended or revoked under this chapter, a
22 person may rely upon representations of an individual listed in
23 section 8611(b) relating to the individual's relationship to the
24 donor or prospective donor unless the person knows that the
25 representation is untrue.

26 (d) Law on autopsies applicable.--The provisions of this
27 subchapter are subject to the laws of this Commonwealth
28 prescribing powers and duties with respect to autopsies.
29 Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history
30 record information), an organ procurement organization is

1 authorized to obtain a copy of an autopsy report in a timely
2 fashion upon request and payment of reasonable copying fees.

3 § 8617. Requests for anatomical gifts.

4 [(a) Procedure.--On or before the occurrence of each death
5 in an acute care general hospital, the hospital shall make
6 contact with the regional organ procurement organization in
7 order to determine the suitability for organ, tissue and eye
8 donation for any purpose specified under this subchapter. This
9 contact and the disposition shall be noted on the patient's
10 medical record.

11 (b) Limitation.--If the hospital administrator or his
12 designee has received actual notice of opposition from any of
13 the persons named in section 8611(b) (relating to persons who
14 may execute anatomical gift) and the decedent was not in
15 possession of a validly executed donor card, the gift of all or
16 any part of the decedent's body shall not be requested.

17 (c) Donor card.--Notwithstanding any provision of law to the
18 contrary, the intent of a decedent to participate in an organ
19 donor program as evidenced by the possession of a validly
20 executed donor card, donor driver's license, living will,
21 durable power of attorney or other document of gift shall not be
22 revoked by any member of any of the classes specified in section
23 8611(b).

24 (d) Identification of potential donors.--Each acute care
25 general hospital shall develop within one year of the date of
26 final enactment of this section, with the concurrence of the
27 hospital medical staff, a protocol for identifying potential
28 organ and tissue donors. It shall require that, at or near the
29 time of every individual death, all acute care general hospitals
30 contact by telephone their regional organ procurement

1 organization to determine suitability for organ, tissue and eye
2 donation of the individual in question. The person designated by
3 the acute care general hospital to contact the organ procurement
4 organization shall have the following information available
5 prior to making the contact:

- 6 (1) The patient's identifier number.
- 7 (2) The patient's age.
- 8 (3) The cause of death.
- 9 (4) Any past medical history available.

10 The organ procurement organization, in consultation with the
11 patient's attending physician or his designee, shall determine
12 the suitability for donation. If the organ procurement
13 organization in consultation with the patient's attending
14 physician or his designee determines that donation is not
15 appropriate based on established medical criteria, this shall be
16 noted by hospital personnel on the patient's record, and no
17 further action is necessary. If the organ procurement
18 organization in consultation with the patient's attending
19 physician or his designee determines that the patient is a
20 suitable candidate for anatomical donation, the acute care
21 general hospital shall initiate a request by informing the
22 persons and following the procedure designated under section
23 8611(b) of the option to donate organs, tissues or eyes. The
24 person initiating the request shall be an organ procurement
25 organization representative or a designated requestor. The organ
26 procurement organization representative or designated requestor
27 shall ask persons pursuant to section 8611(b) whether the
28 deceased was an organ donor. If the person designated under
29 section 8611(b) does not know, then this person shall be
30 informed of the option to donate organs and tissues. The

1 protocol shall encourage discretion and sensitivity to family
2 circumstances in all discussions regarding donations of tissue
3 or organs. The protocol shall take into account the deceased
4 individual's religious beliefs or nonsuitability for organ and
5 tissue donation.

6 (e) Tissue procurement.--

7 (1) The first priority use for all tissue shall be
8 transplantation.

9 (2) Upon Department of Health approval of guidelines
10 pursuant to subsection (f)(1)(ii), all acute care general
11 hospitals shall select at least one tissue procurement
12 provider. A hospital shall notify the regional organ
13 procurement organization of its choice of tissue procurement
14 providers. If a hospital chooses more than one tissue
15 procurement provider, it may specify a rotation of referrals
16 by the organ procurement organization to the designated
17 tissue procurement providers.

18 (3) Until the Department of Health has approved
19 guidelines pursuant to subsection (f)(1)(ii), tissue
20 referrals at each hospital shall be rotated in a proportion
21 equal to the average rate of donors recovered among the
22 tissue procurement providers at that hospital during the two-
23 year period ending August 31, 1994.

24 (4) The regional organ procurement organization, with
25 the assistance of tissue procurement providers, shall submit
26 an annual report to the General Assembly on the following:

27 (i) The number of tissue donors.

28 (ii) The number of tissue procurements for
29 transplantation.

30 (iii) The number of tissue procurements recovered

1 for research by each tissue procurement provider
2 operating in this Commonwealth.

3 (f) Guidelines.--

4 (1) The Department of Health, in consultation with organ
5 procurement organizations, tissue procurement providers and
6 the Hospital Association of Pennsylvania, donor recipients
7 and family appointed pursuant to section 8622(c)(3) (relating
8 to The Governor Robert P. Casey Memorial Organ and Tissue
9 Donation Awareness Trust Fund) shall, within six months of
10 the effective date of this chapter, do all of the following:

11 (i) Establish guidelines regarding efficient
12 procedures facilitating the delivery of anatomical gift
13 donations from receiving hospitals to procurement
14 providers.

15 (ii) Develop guidelines to assist hospitals in the
16 selection and designation of tissue procurement
17 providers.

18 (2) Each organ procurement organization and each tissue
19 procurement provider operating within this Commonwealth
20 shall, within six months of the effective date of this
21 chapter, file with the Department of Health, for public
22 review, its operating protocols.]

23 (a) Procedure.--

24 (1) A hospital located in this Commonwealth shall notify
25 the applicable designated organ procurement organization or a
26 third party designated by that organization of an individual
27 whose death is imminent or who has died in the hospital.
28 Notification shall be made in a timely manner to ensure that
29 examination, evaluation and ascertainment of donor status as
30 set forth in subsection (d) can be completed within a time

1 frame compatible with the donation of organs and tissues for
2 transplant. The notification shall be made without regard to
3 whether the person has executed an advance directive for
4 health care.

5 (2) The following shall apply to coroners and medical
6 examiners:

7 (i) Except as set forth in subparagraph (ii), a
8 coroner or medical examiner shall notify the applicable
9 designated organ procurement organization of a person's
10 death in accordance with a mutually agreed-upon protocol.
11 Notification shall be made in a timely manner to ensure
12 that examination, evaluation and ascertainment of donor
13 status as set forth in subsection (d) can be completed
14 within a time frame compatible with the recovery of
15 tissues for transplant.

16 (ii) Notification under this paragraph shall not be
17 made if:

18 (A) the decedent was admitted to the hospital at
19 or around the time of death; or

20 (B) the notification to the coroner or medical
21 examiner occurred more than 18 hours following the
22 estimated time of the decedent's death.

23 (b) Referrals.--If an organ procurement organization
24 receives a referral of an individual whose death is imminent or
25 who has died, the organ procurement organization shall make a
26 reasonable search of the records of the Donate Life PA Registry
27 or the applicable State donor registry that it knows exists for
28 the geographic area in which the individual resided or resides
29 in order to ascertain whether the individual has made an
30 anatomical gift.

1 (c) Document of gift.--

2 (1) If the referred patient has a document of gift,
3 including registration with the Donate Life PA Registry, the
4 procurement organization representative or the designated
5 requestor shall attempt to notify a person listed in section
6 8611(b) (relating to persons who may execute anatomical gift)
7 of the gift.

8 (2) If no document of gift is known to the procurement
9 organization representative or the designated requestor, one
10 of these two individuals shall ask the persons listed in
11 section 8611(b) whether the decedent had a validly executed
12 document of gift. If there is no evidence of an anatomical
13 gift by the decedent, the procurement organization
14 representative or the designated requestor shall notify a
15 person listed in section 8611(b) of the option to donate
16 organs and tissues. The notification shall be performed in
17 accordance with a protocol that encourages discretion and
18 sensitivity to family circumstances in all discussions
19 regarding donations of tissue or organs. The protocol shall
20 take into account the deceased's religious beliefs or
21 nonsuitability for organ and tissue donation.

22 (3) The hospital administrator or that person's
23 designated representative shall indicate in the medical
24 record of the decedent:

25 (i) whether or not a document of gift is known to
26 exist or whether a gift was made; and

27 (ii) if a gift was made, the name of the person
28 granting the gift and that person's relationship to the
29 decedent.

30 (d) Testing.--

1 (1) This subsection shall apply if:

2 (i) a hospital refers an individual who is dead or
3 whose death is imminent to an organ procurement
4 organization; and

5 (ii) the organ procurement organization determines,
6 based upon a medical record review, that the individual
7 may be a prospective donor.

8 (2) If the requirements of paragraph (1) are met, the
9 following shall apply:

10 (i) The organ procurement organization may conduct a
11 blood or tissue test or minimally invasive examination
12 which is reasonably necessary to evaluate the medical
13 suitability of a part that is or may be the subject of an
14 anatomical gift. Specific consent to testing or
15 examination under this subparagraph shall not be
16 required. The results of tests and examinations under
17 this subparagraph shall be used or disclosed only:

18 (A) to evaluate medical suitability for donation
19 and to facilitate the donation process; and

20 (B) as required or permitted by law.

21 (ii) The hospital may not withdraw or withhold any
22 measures which are necessary to maintain the medical
23 suitability of the part until the organ procurement
24 organization has:

25 (A) had the opportunity to advise the applicable
26 persons as set forth in section 8611(b) of the option
27 to make an anatomical gift and has received or been
28 denied authorization to proceed with recovery of the
29 part; or

30 (B) has ascertained that the individual made a

1 gift or expressed a known objection to making a gift.

2 (e) Testing after death.--After a donor's death, a person to
3 whom an anatomical gift may pass under section 8612 (relating to
4 persons who may become donees; purposes for which anatomical
5 gifts may be made) may conduct a test or examination which is
6 reasonably necessary to evaluate the medical suitability of the
7 body or part for its intended purpose.

8 (f) Scope.--An examination conducted under this section may
9 include copying of records necessary to determine the medical
10 suitability of the body or part. This subsection includes
11 medical, dental and other health-related records.

12 (f.1) Recipients.--

13 (1) Subject to the provisions of this chapter, the
14 rights of the person to whom a part passes under section 8612
15 shall be superior to the rights of all others with respect to
16 the part. The person may accept or reject an anatomical gift
17 in whole or in part.

18 (2) Subject to the terms of the document of gift and
19 this chapter, a person that accepts an anatomical gift of an
20 entire body may allow embalming, burial or cremation and the
21 use of remains in a funeral service. If the gift is of a
22 part, the person to whom the part passes under section 8612,
23 upon the death of the donor and before embalming, burial or
24 cremation, shall cause the part to be removed without
25 unnecessary mutilation.

26 (f.2) Physicians.--

27 (1) Neither the physician who attends the decedent at
28 death nor the physician who determines the time of the
29 decedent's death may participate in the procedures for
30 removing or transplanting a part from the decedent.

1 (2) Subject to paragraph (1), a physician or technician
2 may remove a donated part from the body of a donor that the
3 physician or technician is qualified to remove.

4 (f.3) Coordination of procurement and use.--

5 (1) A hospital shall enter into agreements or
6 affiliations with organ procurement organizations for
7 coordination of procurement and use of anatomical gifts.

8 (2) A person, including a coroner or medical examiner,
9 that seeks to facilitate the making of an anatomical gift for
10 the purposes of transplantation or therapy from a decedent
11 who was not a hospital patient at the time of death shall
12 notify the applicable designated organ procurement
13 organization at or around the time of the person's death in
14 order to allow that organization to evaluate the potential
15 donation and, if applicable, coordinate the donation process.

16 (g) Death record review.--

17 (1) The Department of Health shall make annual death
18 record reviews at acute care general hospitals to determine
19 their compliance with subsection (d).

20 (2) To conduct a review of an acute care general
21 hospital, the following apply:

22 (i) The [Department of Health] department shall
23 select to carry out the review the Commonwealth-licensed
24 organ procurement organization designated by the [Health
25 Care Financing Administration] Centers for Medicare and
26 Medicaid Services for the region within which the acute
27 care general hospital is located. For an organ
28 procurement organization to be selected under this
29 subparagraph, the organization must not operate nor have
30 an ownership interest in an entity which provides all of

1 the functions of a tissue procurement provider.

2 (ii) If there is no valid selection under
3 subparagraph (i) or if the organization selected under
4 subparagraph (i) is unwilling to carry out the review,
5 the department shall select to carry out the review any
6 other Commonwealth-licensed organ procurement
7 organization. For an organ procurement organization to be
8 selected under this subparagraph, the organization must
9 not operate nor have an ownership interest in an entity
10 which provides all of the functions of a tissue
11 procurement provider.

12 (iii) If there is no valid selection under
13 subparagraph (ii) or if the organization selected under
14 subparagraph (ii) is unwilling to carry out the review,
15 the department shall carry out the review using trained
16 department personnel.

17 (3) There shall be no cost assessed against a hospital
18 for a review under this subsection.

19 (4) If the department finds, on the basis of a review
20 under this subsection, that a hospital is not in compliance
21 with subsection (d), the department may impose an
22 administrative fine of up to \$500 for each instance of
23 noncompliance. A fine under this paragraph is subject to 2
24 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
25 Commonwealth agencies) and Ch. 7 Subch. A (relating to
26 judicial review of Commonwealth agency action). Fines
27 collected under this paragraph shall be deposited into the
28 fund.

29 (5) An organ procurement organization may, upon request
30 and payment of associated fees, obtain certified copies of

1 death records of a donor from the Division of Vital Records
2 of the department.

3 (h) Definitions.--As used in this section, the following
4 words and phrases shall have the meanings given to them in this
5 subsection:

6 "Designated requestor." A hospital employee completing a
7 course offered by [an] a designated organ procurement
8 organization on how to approach potential donor families and
9 request organ or tissue donation.

10 "Noncompliance." Any failure on the part of a hospital to
11 contact an organ procurement organization as required under
12 subsection (d).

13 § 8619. Use of driver's license or identification card to
14 indicate organ or tissue donation.

15 (a) General rule.--Beginning as soon as practicable, but no
16 later than January 1, 1995, or one year following the effective
17 date of this section, whichever is later, the Department of
18 Transportation shall redesign the driver's license and
19 identification card application system to process requests for
20 information regarding consent of the individual to organ or
21 tissue donation. The following question shall be asked:

22 Do you wish to have the organ donor designation printed
23 on your driver's license?

24 Only an affirmative response of an individual shall be noted on
25 the front of the driver's license or identification card and
26 shall clearly indicate the individual's intent to donate his
27 organs or tissue. A notation on an individual's driver's license
28 or identification card that he intends to donate his organs or
29 tissue is deemed sufficient to satisfy all requirements for
30 consent to organ or tissue donation. The department shall record

1 and store all donor designations in the Donate Life PA Registry.
2 The recorded and stored designation is sufficient to satisfy all
3 requirements for consent to organ and tissue donation. THE <--
4 RECORDED AND STORED DESIGNATION IS NOT A PUBLIC RECORD SUBJECT
5 TO DISCLOSURE AS DEFINED IN SECTION 102 OF THE ACT OF FEBRUARY
6 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

7 (b) Electronic access.--The organ procurement organizations
8 designated by the Federal Government in the Commonwealth of
9 Pennsylvania as part of the nationwide organ procurement network
10 [may] shall be given 24-hour-a-day electronic access to
11 information necessary to confirm an individual's organ donor
12 status through the Department of Transportation's driver
13 licensing database. Necessary information shall include the
14 individual's name, address, date of birth, driver's license
15 number and organ donor status. Notwithstanding 75 Pa.C.S. § 6114
16 (relating to limitation on sale, publication and disclosure of
17 records), the Department of Transportation is authorized to
18 provide the organ procurement organizations, after a written
19 agreement between the Department of Transportation and the organ
20 procurement organizations is first obtained, with the foregoing
21 information. The organ procurement organization shall not use
22 such information for any purpose other than to confirm an
23 individual's organ donor status at or near or after an
24 individual's death. The organ procurement organizations shall
25 not be assessed the fee for such information prescribed by 75
26 Pa.C.S. § 1955(a) (relating to information concerning drivers
27 and vehicles).

28 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue
29 Donation Awareness Trust Fund contributions.

30 ~~(a) Driver's license. Beginning as soon as practicable, but~~ <--

1 (A) DRIVER'S LICENSE.-- <--

2 (1) BEGINNING AS SOON AS PRACTICABLE, BUT no later than
3 [January 1, 1995] ~~July 1, 2014~~ TEN MONTHS AFTER THE EFFECTIVE <--

4 DATE OF THIS PARAGRAPH, the Department of Transportation
5 shall provide an applicant for an original or renewal
6 driver's license or identification card the opportunity to
7 make a contribution of [\$1] \$3 to the fund. The contribution
8 shall be added to the regular fee for an original or renewal
9 driver's license or identification card. One contribution may
10 be made for each issuance or renewal of a license or
11 identification card. Contributions shall be used exclusively
12 for the purposes set out in section 8622 (relating to The
13 Governor Robert P. Casey Memorial Organ and Tissue Donation <--
14 ~~Awareness Trust Fund~~). ~~The Department of Transportation~~
15 DONATION AWARENESS TRUST FUND). <--

16 (2) THE DEPARTMENT OF TRANSPORTATION shall monthly
17 determine the total amount designated under this section and
18 shall report that amount to the State Treasurer, who shall
19 transfer that amount to The Governor Robert P. Casey Memorial
20 Organ and Tissue Donation Awareness Trust Fund.

21 ~~(b) Vehicle registration. The Department of Transportation <--~~

22 (B) VEHICLE REGISTRATION.--[THE] <--

23 (1) BEGINNING AS SOON AS PRACTICABLE, BUT NO LATER THAN
24 TEN MONTHS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, THE
25 DEPARTMENT OF TRANSPORTATION shall provide an applicant for a
26 renewal vehicle registration the opportunity to make a
27 contribution of [\$1] \$3 to The Governor Robert P. Casey
28 Memorial Organ and Tissue Donation Awareness Trust Fund. The
29 contribution shall be added to the regular fee for a renewal
30 of a vehicle registration. One contribution may be made for

1 each renewal vehicle registration. Contributions shall be
2 used exclusively for the purposes ~~described in section 8622.~~ <--
3 ~~The Department of Transportation~~ DESCRIBED IN SECTION 8622. <--

4 (2) THE DEPARTMENT OF TRANSPORTATION shall monthly
5 determine the total amount designated under this section and
6 shall report that amount to the State Treasurer, who shall
7 transfer that amount to The Governor Robert P. Casey ~~Memorial~~
8 ~~Organ and Tissue Donation Awareness Trust Fund.~~ The MEMORIAL <--
9 ORGAN AND TISSUE DONATION AWARENESS TRUST FUND. <--

10 (3) THE Governor Robert P. Casey Memorial Organ and
11 Tissue Donation Awareness Trust Fund shall reimburse the
12 department for the initial costs incurred in the development
13 and implementation of the contribution program [under this
14 subsection] according to an implementation schedule
15 established by the department and the Organ Donation Advisory
16 Committee. ~~The General Fund shall reimburse the Department of~~ <--
17 COMMITTEE. <--

18 (4) THE GENERAL FUND SHALL REIMBURSE THE DEPARTMENT OF
19 Transportation for the actual annual operating costs of the
20 program for vehicle registrations as described in this
21 subsection [subject to the following limits: For the first
22 fiscal year during which this subsection is effective, the
23 General Fund shall reimburse the Department of Transportation
24 for the actual operating costs of the program in this
25 subsection up to a maximum of \$100,000]. For each fiscal year
26 [thereafter], the General Fund shall reimburse the Department <--
27 of Transportation for the actual operating costs of the
28 program in this subsection in an amount not to exceed the
29 prior year's actual operating costs on a full fiscal year
30 basis plus 3%. The amounts approved by the Governor as

1 necessary are hereby appropriated from the General Fund for
2 this purpose.

3 (c) Internet website.--Within one year of the effective date
4 of this subsection, the official Internet website of the
5 department shall provide links through which individuals may
6 make voluntary contributions of at least \$1 to the fund,
7 electronically. The links shall be provided at least in
8 connection with the issuance of driver's licenses, personal
9 identification cards and registration of motor vehicles.

10 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue
11 Donation Awareness Trust Fund.

12 (a) Establishment.--All contributions received by the
13 Department of Transportation under section 8621 (relating to The
14 Governor Robert P. Casey Memorial Organ and Tissue Donation
15 Awareness Trust Fund contributions) [and the Department of
16 Revenue under section 8618 (relating to voluntary contribution
17 system)] and the Department of Health under section 8617
18 (relating to requests for anatomical gifts) shall be deposited
19 into a special fund in the State Treasury to be known as The
20 Governor Robert P. Casey Memorial Organ and Tissue Donation
21 Awareness Trust Fund, which is hereby established.

22 (b) Appropriation.--All moneys deposited in the fund and
23 interest which accrues from those funds are appropriated on a
24 continuing basis subject to the approval of the Governor to
25 compensate the Department of Transportation, the Department of
26 Health and the Department of Revenue for actual costs related to
27 implementation of this chapter, including all costs of the Organ
28 and Tissue Donation Advisory Committee created in subsection
29 **[(c)] (C.1)**. Any remaining funds are appropriated subject to the <--
30 approval of the Governor for the following purposes:

1 (1) [10%] Ten percent of the total fund may be expended
2 annually by the Department of Health for reasonable hospital
3 and other medical expenses, funeral expenses and incidental
4 expenses incurred by the donor or donor's family in
5 connection with making [a vital organ donation] an organ or
6 tissue donation, along with programming, to provide support
7 services to organ and tissue donors and their families, such
8 as bereavement counseling services. Such expenditures shall
9 not exceed \$3,000 per donor and shall only be made directly
10 to the funeral home, hospital or other service provider
11 related to the donation. No part of the fund shall be
12 transferred directly to the donor's family, next of kin or
13 estate. The advisory committee shall develop procedures,
14 including the development of a pilot program, necessary for
15 effectuating the purposes of this paragraph.

16 (2) [50%] Fifty percent may be expended for grants to
17 certified organ procurement organizations for the development
18 and implementation of organ donation awareness programs in
19 this Commonwealth. The Department of Health shall develop and
20 administer this grant program, which is hereby established.

21 (3) [15%] Fifteen percent may be expended by the
22 Department of Health, in cooperation with certified organ
23 procurement organizations, for the Project-Make-A-Choice
24 program, which shall include information pamphlets designed
25 by the Department of Health relating to organ donor awareness
26 and the laws regarding organ donation, public information and
27 public education about contributing to the fund when
28 obtaining or renewing a driver's license and when completing
29 a State individual income tax return form.

30 (4) [25%] Twenty-five percent may be expended by the

1 Department of Education for the implementation of organ
2 donation awareness programs in the secondary schools in this
3 Commonwealth.

4 [(c) Advisory committee.--The Organ Donation Advisory
5 Committee is hereby established, with membership as follows:

6 (1) Two representatives of organ procurement
7 organizations.

8 (2) Two representatives of tissue procurement providers.

9 (3) Six members representative of organ, tissue and eye
10 recipients, families of recipients and families of donors.

11 (4) Three representatives of acute care hospitals.

12 (5) One representative of the Department of Health.

13 (6) One representative of eye banks.

14 All members shall be appointed by the Governor. Appointments
15 shall be made in a manner that provides representation of the
16 northwest, north central, northeast, southwest, south central
17 and southeast regions of this Commonwealth. Members shall serve
18 five-year terms. The Governor may reappoint advisory committee
19 members for successive terms. Members of the advisory committee
20 shall remain in office until a successor is appointed and
21 qualified. If vacancies occur prior to completion of a term, the
22 Governor shall appoint another member in accordance with this
23 subsection to fill the unexpired term. The advisory committee
24 shall meet at least biannually to review progress in the area of
25 organ and tissue donation in this Commonwealth, recommend
26 education and awareness training programs, recommend priorities
27 in expenditures from the fund and advise the Secretary of Health
28 on matters relating to administration of the fund. The advisory
29 committee shall recommend legislation as it deems necessary to
30 fulfill the purposes of this chapter. The advisory committee

1 shall submit a report concerning its activities and progress to
2 the General Assembly within 30 days prior to the expiration of
3 each legislative session. The Department of Health shall
4 reimburse members of the advisory committee for all necessary
5 and reasonable travel and other expenses incurred in the
6 performance of their duties under this section.]

7 ~~(e)~~ (C.1) Advisory committee.--

<--

8 (1) The Organ and Tissue Donation Advisory Committee is
9 established. Membership shall be as follows:

10 (i) The Secretary of Education or a designee.

11 (ii) The Secretary of Health or a designee.

12 (iii) The Secretary of Transportation or a designee.

13 (iv) One representative from each designated organ
14 procurement organization.

15 (v) Two representatives of tissue procurement
16 providers.

17 (vi) Six members representative of:

18 (A) organ, tissue and eye recipients;

19 (B) families of recipients;

20 (C) donors; and

21 (D) families of donors.

22 (vii) Two representatives of acute care hospitals
23 which are:

24 (A) licensed in this Commonwealth; and

25 (B) members of the Statewide association
26 representing the interests of hospitals throughout
27 this Commonwealth.

28 (viii) One representative of eye banks.

29 (ix) One representative of community health
30 organizations.

1 (X) ONE ELECTED COUNTY CORONER OF THIS COMMONWEALTH. <--

2 (2) A member under paragraph (1) (i), (ii) and (iii)
3 shall serve ex officio.

4 (3) For a member under paragraph (1) (iv), (v), (vi),
5 (vii), (viii) and ~~(ix)~~, (IX) AND (X), the following apply: <--

6 (i) Members shall be appointed in a manner which
7 reflects geographic diversity. Input on the selection of
8 the representatives under paragraph (1) (vii) shall be
9 sought from the Statewide association referred to in
10 paragraph (1) (vii) (B).

11 (ii) The members shall serve five-year terms.

12 (iii) The Governor may reappoint an advisory
13 committee member for successive terms.

14 (iv) A member shall remain in office until a
15 successor is appointed and qualified.

16 (v) If a vacancy occurs prior to completion of a
17 term, the Governor shall appoint a member to fill the
18 unexpired term in the same manner as the vacating member
19 was appointed.

20 (4) The advisory committee shall meet at least
21 biannually to do all of the following:

22 (i) Review progress in the area of organ and tissue
23 donation in this Commonwealth.

24 (ii) Recommend education and awareness training
25 programs.

26 (iii) Recommend priorities in expenditures from the
27 fund.

28 (iv) Advise the Secretary of Health on matters
29 relating to administration of the fund.

30 (v) Recommend legislation as necessary to fulfill

1 the purposes of this chapter.

2 (5) The advisory committee shall submit a report
3 concerning its activities and progress to the Secretary of
4 the Senate and the Chief Clerk of the House of
5 Representatives by October 31 of each even-numbered year.

6 (6) The Department of Health shall reimburse members of
7 the advisory committee only for necessary and reasonable
8 travel and other expenses incurred in the performance of
9 their duties under this subsection.

10 (d) Reports.--The Department of Health, the Department of
11 Transportation and the Department of Education shall submit an
12 annual report to the General Assembly on expenditures of fund
13 moneys and any progress made in [reducing the number of
14 potential donors who were not identified] increasing the number
15 of donor designations.

16 [(e) Definition.--As used in this section, the term "vital
17 organ" means a heart, lung, liver, kidney, pancreas, small
18 bowel, large bowel or stomach for the purpose of
19 transplantation.]

20 (f) Lead Commonwealth agency.--

21 (1) The Department of Health shall be the lead
22 Commonwealth agency responsible for promoting organ and
23 tissue donation in this Commonwealth and shall coordinate
24 activities among other collaborating Commonwealth agencies.

25 (2) Within the Department of Health there is established
26 a full-time position of Organ and Tissue Donation Awareness
27 Program Coordinator.

28 (i) The Department of Health shall be reimbursed by
29 The Governor Robert P. Casey Memorial Organ and Tissue
30 Donation Awareness Trust Fund for the actual cost of the

1 program coordinator position.

2 (ii) The program coordinator has the following
3 powers and duties:

4 (A) Assist in administration of the fund.

5 (B) Serve as a full-time liaison to the advisory
6 committee and assist the advisory committee in
7 program development, projects, funding proposals and
8 priorities.

9 (C) Serve as liaison with other Commonwealth
10 agencies. This clause shall include working with the
11 Department of Transportation to ensure that driver's
12 license centers promote organ and tissue donation and
13 comply with agreed-upon arrangements to display
14 information and materials.

15 (D) Assist designated organ procurement
16 organizations in their collaborations with other
17 Commonwealth agencies.

18 (E) Provide input to designated organ
19 procurement organizations regarding training of
20 individuals performing notifications under section
21 8617(c). Such training shall encourage discretion and
22 sensitivity to family circumstances and the
23 circumstances of the potential donor's death in all
24 discussions regarding donations of tissue or organs
25 and take into account the potential donor's religious
26 beliefs or nonsuitability for organ and tissue
27 donation.

28 (F) Assist in resolving issues that MAY arise in <--
29 hospitals in this Commonwealth regarding donation.

30 § 8623. Confidentiality requirement.

1 [The identity of the donor and of the recipient may not be <--
2 communicated unless expressly authorized by the recipient and <--
3 next of kin of the decedent.]± <--

4 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), NO <--
5 PROCUREMENT ORGANIZATION MAY DIVULGE ANY INDIVIDUALLY
6 IDENTIFIABLE INFORMATION ACQUIRED IN THE COURSE OF PERFORMING
7 ITS RESPONSIBILITIES UNDER THIS CHAPTER EXCEPT FOR THE PURPOSES
8 OF FACILITATING ORGAN, EYE OR TISSUE DONATION AND
9 TRANSPLANTATION OR AS OTHERWISE REQUIRED UNDER APPLICABLE LAWS.

10 (B) DONORS AND RECIPIENTS.--A PROCUREMENT ORGANIZATION MAY
11 COMMUNICATE INDIVIDUALLY IDENTIFIABLE INFORMATION OF THE DONOR
12 AND RECIPIENT IF EXPRESSLY AUTHORIZED BY:

13 (1) the recipient; and

14 (2) if the donor is alive, the donor, or if the donor is
15 deceased, the next of kin of the donor.

16 § 8624. Prohibited activities.

17 [(a) Affiliates.--No organ procurement organization selected
18 by the Department of Health under section 8617(g) (relating to
19 requests for anatomical gifts) to conduct annual death reviews
20 may use that review authority or any powers or privileges
21 granted thereby to coerce or attempt to coerce a hospital to
22 select the organization or any tissue procurement provider
23 contractually affiliated with the organization as a designated
24 tissue procurement provider under section 8617(e).

25 (b) Unfair acts.--No organ procurement organization or
26 tissue procurement provider may disparage the services or
27 business of other procurement providers by false or misleading
28 representations of fact, engage in any other fraudulent conduct
29 to influence the selection by a hospital of a qualified tissue
30 procurement provider nor engage in unlawful competition or

1 discrimination. This subsection is not intended to restrict or
2 preclude any organ procurement organization or tissue
3 procurement provider from marketing or promoting its services in
4 the normal course of business.]

5 ~~(a)~~ (C) Procurement organizations.-- <--

6 (1) A procurement organization shall not do any of the
7 following:

8 (i) Disparage the services or business of another
9 procurement organization by false or misleading
10 representations of fact.

11 (ii) Engage in fraudulent conduct to influence the
12 selection by a hospital of a tissue bank or eye bank.

13 (iii) Engage in unlawful competition or
14 discrimination.

15 (2) This subsection is not intended to restrict or
16 preclude an organ procurement organization from marketing or
17 promoting its services in the normal course of business.

18 ~~(b)~~ (D) Funeral establishments.-- <--

19 (1) Except as set forth in paragraph (2), a funeral
20 director or a funeral establishment shall not:

21 (i) remove body parts from a corpse;

22 (ii) permit others to remove body parts from a
23 corpse; or

24 (iii) use funeral establishment facilities to remove
25 body parts from a corpse.

26 (2) Paragraph (1) shall not apply as follows:

27 (i) Removal is permissible if it is:

28 (A) necessary to perform embalming or other
29 services in preparation for burial or cremation; and

30 (B) authorized in writing by a family member,

1 guardian or other person responsible for disposition
2 of the body.

3 (ii) Notwithstanding any other provision of law, if
4 a donation is authorized under this chapter, a designated
5 organ procurement organization and a Pennsylvania
6 nonprofit eye bank accredited by the Eye Bank Association
7 of America may recover donated ocular tissue, including
8 the whole eye, cornea and sclera, and associated blood
9 specimens at a funeral establishment.

10 (3) If a funeral director is notified by a person
11 authorized to make donations under this chapter that the
12 person wishes to donate body parts from a corpse within the
13 funeral director's custody, the funeral director shall
14 immediately notify the organ procurement organization
15 designated to serve that region.

16 Section 5. Title 20 is amended by adding sections to read:
17 § 8625. Promotion of organ and tissue donation; Donate Life PA
18 Registry established.

19 (a) Promotion.--The Department of Transportation shall
20 ensure access by residents of this Commonwealth to an Internet-
21 based interface which promotes organ and tissue donation and
22 enables residents 18 years of age or older who hold a
23 Pennsylvania driver's license or identification card to register
24 as donors and have their decisions immediately integrated into
25 the current database maintained by the department. The database
26 shall include only affirmative donation decisions.

27 (b) Paper form.--

28 (1) Within one year of the effective date of this
29 section, the department shall establish a system which allows
30 individuals who have been issued a driver's license or

1 identification card to add their donor designation to the
2 Donate Life PA Registry by submitting a form to the
3 department.

4 (2) Registration shall be provided at no cost to the
5 registrant.

6 (c) Donate Life PA Registry; name.--That portion of the
7 database maintained by the department for recording donor
8 designations and Internet-based interface established in this
9 section shall be known as the Donate Life PA Registry.

10 (d) Form and content.--The form and content of the Internet-
11 based interface shall be maintained in collaboration with the
12 designated organ procurement organizations.

13 (e) Effect.--

14 (1) Donor information entered into the Donate Life PA
15 Registry shall supersede prior conflicting information:

16 (i) provided to the Donate Life PA Registry;

17 (ii) on the individual's physical driver's license
18 or identification card;

19 (iii) on an advance health care directive;

20 (iv) submitted under section 8611 (relating to
21 persons who may execute anatomical gift); or

22 (v) submitted under any other statutory provision.

23 (2) Registration by a donor shall constitute sufficient
24 authorization to donate organs and tissues for
25 transplantation and therapy. Authorization of another person
26 shall not be necessary to effectuate the anatomical gift.

27 (f) Technology.--An information technology system adopted by
28 the Department of Transportation after the effective date of
29 this section shall continue to accommodate the inclusion of
30 donor designation information into the database and the ongoing

1 operation of the Donate Life PA Registry.

2 § 8626. Facilitation of anatomical gift from decedent whose <--
3 death is under investigation.

4 (a) Collaboration by procurement organization.

5 (1) A coroner or medical examiner having jurisdiction
6 may permit the removal of an anatomical gift authorized under
7 this chapter from a decedent whose death is under
8 investigation.

9 (2) Organ procurement organizations shall in all cases
10 collaborate with the coroner or medical examiner to ensure
11 the preservation of forensic evidence.

12 (3) Upon request, an organ procurement organization
13 shall provide or assist the coroner or medical examiner in
14 obtaining:

15 (i) Medical records.

16 (ii) Photographs.

17 (iii) Specimens, including blood and tissue.

18 (iv) Laboratory and diagnostic test results.

19 (v) Any other available information.

20 (4) Notwithstanding the provisions set forth in 18 Pa.C.S.
21 Ch. 91 (relating to criminal history record information), a
22 coroner or medical examiner shall, upon request, release to the
23 organ procurement organization the name, contact information and
24 available medical and social history of a decedent whose death
25 is under investigation.

26 (b) Attendance at recovery.

27 (1) If a coroner or medical examiner is considering
28 denying recovery of one or more organs intended for
29 transplant or therapy for any reason, the coroner or medical
30 examiner or his or her designee shall, upon request of the

~~organ procurement organization, be present during the procedure to remove the organs.~~

~~(2) The coroner or medical examiner or his or her designee in attendance may deny removal of the organs if in his or her judgment those organs may be involved in the cause of death.~~

~~(3) If the coroner or medical examiner or his or her designee denies removal of the organs, the coroner or medical examiner shall explain in writing the reasons for determining that those organs may be involved in the cause of death and the basis for denying recovery of the organ.~~

~~(4) The designated organ procurement organization shall reimburse the coroner or medical examiner for the reasonable costs for the professional services of the coroner or medical examiner or his or her designee associated with attending the recovery.~~

~~(c) Report. If requested by the coroner or medical examiner, the physician or technician recovering a part under this section shall provide a report detailing the condition of the part. If appropriate, the report shall include a biopsy, photographs or medically approved sample from the part.~~

§ 8626. FACILITATION OF ANATOMICAL GIFT FROM DECEDENT WHOSE DEATH IS UNDER INVESTIGATION.

(A) COORDINATION.--

(1) UPON IDENTIFICATION OF A PROSPECTIVE DONOR, AN ORGAN PROCUREMENT ORGANIZATION SHALL, WITHIN A REASONABLE TIME, NOTIFY THE CORONER OR MEDICAL EXAMINER OF THE COUNTY IN WHICH THE PROSPECTIVE DONOR IS LOCATED.

(2) UPON NOTIFICATION AS DESCRIBED IN PARAGRAPH (1), A CORONER OR MEDICAL EXAMINER INTENDING TO INVESTIGATE A

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1 PROSPECTIVE DONOR'S DEATH SHALL, TO THE EXTENT APPLICABLE AND
2 REASONABLE UNDER THE CIRCUMSTANCES:

3 (I) NOTIFY THE CORONER OR MEDICAL EXAMINER OF THE
4 COUNTY IN WHICH THE CAUSE PRECIPITATING THE PROSPECTIVE
5 DONOR'S DEATH IS BELIEVED TO HAVE OCCURRED, WHO SHALL
6 THEN CAUSE THE DISTRICT ATTORNEY OF THE COUNTY TO BE
7 NOTIFIED IN ACCORDANCE WITH INTERNAL COUNTY PROTOCOLS.

8 (II) NOTIFY THE APPLICABLE ORGAN PROCUREMENT
9 ORGANIZATION OF ANY CHANGE IN JURISDICTION.

10 (3) ORGAN PROCUREMENT ORGANIZATIONS SHALL IN ALL CASES
11 COOPERATE WITH THE CORONER OR MEDICAL EXAMINER IN ORDER TO
12 FACILITATE THE PRESERVATION AND COLLECTION OF FORENSIC
13 EVIDENCE. ORGAN PROCUREMENT ORGANIZATIONS SHALL NOT MOVE OR
14 CAUSE TO BE MOVED A PROSPECTIVE DONOR WITHOUT AUTHORIZATION
15 OF THE CORONER OR MEDICAL EXAMINER HAVING JURISDICTION. UPON
16 REQUEST, AN ORGAN PROCUREMENT ORGANIZATION SHALL PROVIDE OR
17 ASSIST THE CORONER OR MEDICAL EXAMINER IN OBTAINING:

18 (I) MEDICAL RECORDS.

19 (II) PHOTOGRAPHS.

20 (III) SPECIMENS, INCLUDING BLOOD AND TISSUE.

21 (IV) LABORATORY AND DIAGNOSTIC TEST RESULTS.

22 (V) ANY OTHER AVAILABLE INFORMATION.

23 (4) IF APPLICABLE, THE CORONER OR MEDICAL EXAMINER SHALL
24 TIMELY NOTIFY THE ORGAN PROCUREMENT ORGANIZATION OF ANY
25 ADDITIONAL REQUESTS FROM THE CORONER, MEDICAL EXAMINER OR
26 DISTRICT ATTORNEY OF THE COUNTY WHERE THE CAUSE OF DEATH IS
27 BELIEVED TO HAVE OCCURRED, INCLUDING SCHEDULING THE RECOVERY
28 PROCEDURE TO PERMIT THEIR ATTENDANCE WHERE THE SCHEDULING CAN
29 BE DONE IN A TIME FRAME CONSISTENT WITH FACILITATING
30 ANATOMICAL DONATION. ATTENDANCE MAY BE IN PERSON OR, IF IN-

1 PERSON ATTENDANCE IS NOT POSSIBLE IN A TIME FRAME CONSISTENT
2 WITH FACILITATING ANATOMICAL DONATION AND, IF AVAILABLE, BY
3 ELECTRONIC COMMUNICATION WHICH INCLUDES A LIVE VISUAL
4 DEPICTION OF THE RECOVERY PROCEDURE.

5 (5) NOTWITHSTANDING THE PROVISIONS OF 18 PA.C.S. CH. 91
6 (RELATING TO CRIMINAL HISTORY RECORD INFORMATION), A CORONER
7 OR MEDICAL EXAMINER SHALL, UPON REQUEST, RELEASE TO THE ORGAN
8 PROCUREMENT ORGANIZATION THE NAME, CONTACT INFORMATION AND
9 AVAILABLE MEDICAL AND SOCIAL HISTORY OF A DECEDENT WHOSE
10 DEATH IS UNDER INVESTIGATION.

11 (B) FACILITATION OF DONATION.--WHERE A CORONER OR MEDICAL
12 EXAMINER HAS JURISDICTION IN THE CASE OF A PROSPECTIVE ORGAN
13 DONOR, THE FOLLOWING SHALL APPLY:

14 (1) IF THE CORONER OR MEDICAL EXAMINER IS CONSIDERING
15 DENYING RECOVERY OF ONE OR MORE ORGANS INTENDED FOR
16 TRANSPLANT OR THERAPY, THE CORONER OR MEDICAL EXAMINER SHALL
17 NOTIFY THE APPLICABLE ORGAN PROCUREMENT ORGANIZATION.

18 (2) IF REQUESTED BY THE ORGAN PROCUREMENT ORGANIZATION,
19 THE CORONER OR MEDICAL EXAMINER OR DESIGNEE SHALL ATTEND THE
20 ORGAN RECOVERY PROCEDURE AND THE FOLLOWING SHALL APPLY:

21 (I) THE ORGAN PROCUREMENT ORGANIZATION SHALL USE ITS
22 BEST EFFORTS TO SCHEDULE THE RECOVERY PROCEDURE AT THE
23 TIME REASONABLY REQUESTED BY THE CORONER OR MEDICAL
24 EXAMINER.

25 (II) THE CORONER OR MEDICAL EXAMINER OR DESIGNEE MAY
26 ONLY DENY REMOVAL OF THE ORGAN IF, IN HIS JUDGMENT, THE
27 REMOVAL OF THE ORGAN MAY INTERFERE WITH OR IMPEDE THE
28 INVESTIGATION OF THE CAUSE, MANNER AND MECHANISM OF
29 DEATH. FOR THE DENIAL TO BE VALID, THE CORONER OR MEDICAL
30 EXAMINER OR DESIGNEE MUST BE IN ATTENDANCE AT THE

1 RECOVERY PROCEDURE. ATTENDANCE MUST BE IN PERSON OR, IF
2 IN-PERSON ATTENDANCE IS NOT POSSIBLE IN A TIME FRAME
3 CONSISTENT WITH FACILITATING DONATION AND, IF AVAILABLE,
4 BY ELECTRONIC COMMUNICATION WHICH INCLUDES A LIVE VISUAL
5 DEPICTION OF THE RECOVERY PROCEDURE.

6 (III) IF THE CORONER OR MEDICAL EXAMINER OR
7 DESIGNEE DENIES REMOVAL OF THE ORGAN, THE CORONER OR
8 MEDICAL EXAMINER SHALL EXPLAIN, IN WRITING, THE REASON
9 FOR DETERMINING THAT THE REMOVAL OF THE ORGAN MAY
10 INTERFERE WITH OR IMPEDE THE INVESTIGATION OF THE CAUSE,
11 MANNER AND MECHANISM OF DEATH.

12 (IV) NO REMOVAL OF THE ORGAN SHALL OCCUR IF THE
13 CORONER OR MEDICAL EXAMINER OR DESIGNEE HAS DENIED
14 RECOVERY IN ACCORDANCE WITH SUBPARAGRAPH (II) AND
15 COMPLIED WITH THE PROCEDURE IN SUBPARAGRAPH (III).

16 (V) THE APPLICABLE ORGAN PROCUREMENT ORGANIZATION
17 SHALL REIMBURSE THE CORONER OR MEDICAL EXAMINER FOR THE
18 REASONABLE COSTS OF ATTENDANCE AT THE RECOVERY PROCEDURE.

19 (C) REPORT.--IF REQUESTED BY THE CORONER, MEDICAL EXAMINER
20 OR DISTRICT ATTORNEY, THE PHYSICIAN OR TECHNICIAN RECOVERING AN
21 ORGAN UNDER THIS SECTION SHALL PROVIDE A REPORT AND, IF
22 NECESSARY, BE AVAILABLE TO PROVIDE TESTIMONY IN ANY PROCEEDING,
23 DETAILING THE CONDITION OF THE ORGAN AND THE RECOVERY PROCEDURE.
24 REASONABLE COSTS ASSOCIATED WITH A PHYSICIAN OR TECHNICIAN'S
25 PROVIDING TESTIMONY UNDER THIS SECTION SHALL BE PAID BY THE
26 DESIGNATED ORGAN PROCUREMENT ORGANIZATION.

27 (D) TIMING.--THE REQUIREMENTS OF THIS SECTION SHALL BE
28 PERFORMED IN A MANNER AND TIME FRAME CONSISTENT WITH ANATOMICAL
29 DONATION.

30 § 8627. Collaboration among departments and organ procurement

1 organizations.

2 (a) Mandatory.--

3 (1) For purposes of the ongoing development and
4 implementation of the Donate Life PA Registry, the Department
5 of Transportation shall collaborate with the designated organ
6 procurement organizations in applying for Federal or private
7 grants recommended by the organ procurement organizations.

8 (2) The Department of Transportation, in consultation
9 with designated organ procurement organizations, shall
10 establish an annual education program for photo license
11 technicians of the Department of Transportation.

12 (b) Discretionary.--Other Commonwealth agencies may
13 collaborate with the designated organ procurement organizations
14 in applying for Federal or private grants recommended by the
15 organ procurement organizations.

16 § 8628. Information relative to organ and tissue donation.

17 (a) Curriculum.--The Department of Education, in
18 consultation with the designated organ procurement
19 organizations, shall review the Commonwealth's educational
20 curriculum framework to ensure that information about organ
21 donation is included in the standards for students in grades
22 nine through 12 beginning with the 2013-2014 2015-2016 school <--
23 year.

24 (b) Goals.--The goals of the standards shall be to:

25 (1) Emphasize the benefits of organ and tissue donation
26 to the health and well-being of society generally and to
27 individuals whose lives are saved by organ and tissue
28 donations so that students will be motivated to make an
29 affirmative decision to register as a donor when they become
30 adults.

1 (2) Fully address myths and misunderstandings regarding
2 organ and tissue donation.

3 (3) Explain the options available to minors and adults,
4 including the option of designating oneself as an organ and
5 tissue donor.

6 (c) Materials.--The Department of Education shall make
7 related instructional materials available to public and
8 nonpublic schools educating students in grades nine through 12.
9 The General Assembly shall encourage nonpublic schools to use
10 the instructional materials. Nothing in this subsection shall be
11 construed to require nonpublic schools to use the instructional
12 materials.

13 (d) Institutions of higher education.--

14 (1) Beginning with the ~~2013-2014~~ 2014-2015 school year, <--
15 each public institution of higher education in this
16 Commonwealth shall provide, in collaboration with the
17 designated organ procurement organizations, information to
18 its students, either through student health services or as
19 part of the curriculum, which:

20 (i) emphasizes the benefits to the health and well-
21 being of society and the lives that are saved through
22 organ and tissue donations; and

23 (ii) instills knowledge which will enable
24 individuals to make informed decisions about registering
25 to become an organ and tissue donor.

26 (2) Beginning with the ~~2013-2014~~ 2015-2016 school year, <--
27 each private institution of higher education in this
28 Commonwealth is encouraged to provide, in collaboration with
29 the designated organ procurement organizations, information
30 to its students, either through student health services or as

1 part of the curriculum, which:

2 (i) emphasizes the benefits to the health and well-
3 being of society and the lives that are saved through
4 organ and tissue donations; and

5 (ii) instills knowledge which will enable
6 individuals to make informed decisions about registering
7 to become an organ and tissue donor.

8 § 8629. Requirements for physician and nurse training relative
9 to organ and tissue donation and recovery.

10 (a) Regulations.--The State Board of Medicine, the State
11 Board of Osteopathic Medicine and the State Board of Nursing
12 shall, in collaboration with the designated organ procurement
13 organizations, promulgate regulations stating the following
14 requirements for physician and professional nurse training:

15 (1) The curriculum in each college of medicine or
16 osteopathy or educational program of professional nursing in
17 this Commonwealth shall include two hours of instruction in
18 organ and tissue donation and recovery designed to address
19 clinical aspects of the donation and recovery process.

20 (2) Successful completion of organ and tissue donation
21 and recovery instruction under paragraph (1) shall be
22 required as a condition of receiving the degree of doctor of
23 medicine or doctor of osteopathy or a degree in professional
24 nursing, in this Commonwealth.

25 (3) A college of medicine or osteopathy or nursing
26 program which includes instruction in organ and tissue
27 donation and recovery under paragraph (1) in its curricula
28 shall offer this training for continuing education credit.

29 (b) Statement of policy.--The State Board of Medicine, the
30 State Board of Osteopathic Medicine and the State Board of

1 Nursing shall issue a statement of policy encouraging physicians
2 and nurses who, prior to the effective date of this section,
3 were not required to receive and did not receive instruction in
4 organ and tissue donation and recovery as part of a medical,
5 osteopathic or nursing school curriculum to complete the
6 training within three years after the effective date of this
7 section. The training may be completed through an online,
8 credit-based course developed by or for the designated organ
9 procurement organizations, in collaboration with representative
10 professional medical, osteopathic and nursing organizations in
11 this Commonwealth.

12 § 8630. Uniformity of application and construction.

13 In applying and construing the provisions of this chapter,
14 consideration shall be given to the need to promote uniformity
15 of the law with respect to its subject matter among those states
16 which enact a uniform act.

17 § 8631. Relation to Electronic Signatures in Global and
18 National Commerce Act.

19 This chapter modifies, limits and supersedes the Electronic
20 Signatures in Global and National Commerce Act (Public Law 106-
21 229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,
22 limit or supersede section 101(c) of the Electronic Signatures
23 in Global and National Commerce Act or authorize electronic
24 delivery of any of the notices described in section 103(b) of
25 the Electronic Signatures in Global and National Commerce Act.

26 Section 6. Subchapter C of Chapter 86 of Title 20 is
27 repealed:

28 [SUBCHAPTER C
29 CORNEAL TRANSPLANTS
30 Sec.

1 8641. Removal of corneal tissue permitted under certain
2 circumstances.

3 8642. Limitation of liability.

4 § 8641. Removal of corneal tissue permitted under certain
5 circumstances.

6 (a) General rule.--On a request from an authorized official
7 of an eye bank for corneal tissue, a coroner or medical examiner
8 may permit the removal of corneal tissue if all of the following
9 apply:

10 (1) The decedent from whom the tissue is to be removed
11 died under circumstances requiring an inquest.

12 (2) The coroner or medical examiner has made a
13 reasonable effort to contact persons listed in section 8611
14 (relating to persons who may execute anatomical gift).

15 (3) No objection by a person listed in section 8611 is
16 known by the coroner or medical examiner.

17 (4) The removal of the corneal tissue will not interfere
18 with the subsequent course of an investigation or autopsy or
19 alter the decedent's postmortem facial appearance.

20 (b) Definition.--As used in this section, the term "eye
21 bank" means a nonprofit corporation chartered under the laws of
22 this Commonwealth to obtain, store and distribute donor eyes to
23 be used by physicians or surgeons for corneal transplants,
24 research or other medical purposes and the medical activities of
25 which are directed by a physician or surgeon in this
26 Commonwealth.

27 § 8642. Limitation of liability.

28 A person who acts in good faith in accordance with the
29 provisions of this subchapter shall not be subject to criminal
30 or civil liability arising from any action taken under this

1 subchapter. The immunity provided by this section shall not
2 extend to persons if damages result from the gross negligence,
3 recklessness or intentional misconduct of the person.]

4 Section 7. This act shall take effect ~~in 60 days.~~ AS <--

5 FOLLOWS:

6 (1) THE AMENDMENT OF 75 PA.C.S. § 8621 SHALL TAKE EFFECT
7 IMMEDIATELY.

8 (2) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

9 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
10 DAYS.