

AMENDMENTS TO SENATE BILL NO. 180

Sponsor: REPRESENTATIVE EVERETT

Printer's No. 923

1 Amend Bill, page 1, lines 1 through 25, by striking out all

2 of said lines and inserting

3 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
4 Pennsylvania Consolidated Statutes, in ownership of property
5 and legal title and equitable estate, further providing for
6 right to dispose of a decedent's remains; in health care,
7 further providing for example; in anatomical gifts, further
8 providing for definitions, providing for scope, further
9 providing for persons who may execute anatomical gift, for
10 persons who may become donees and purposes for which
11 anatomical gifts may be made, for manner of executing
12 anatomical gifts, for rights and duties at death, for
13 requests for anatomical gifts, for use of driver's license or
14 identification card to indicate organ or tissue donation, for
15 The Governor Robert P. Casey Memorial Organ and Tissue
16 Donation Awareness Trust Fund contributions, for The Governor
17 Robert P. Casey Memorial Organ and Tissue Donation Awareness
18 Trust Fund, for confidentiality requirement and for
19 prohibited activities, providing for promotion of organ and
20 tissue donation, establishing the Donate Life PA Registry,
21 providing for facilitation of anatomical gift from decedent
22 whose death is under investigation, for collaboration among
23 departments and organ procurement organizations, for
24 requirements for physician and nurse training relative to
25 organ and tissue donation and recovery, for Department of
26 Transportation, for Department of Corrections, for study of
27 organ procurement organizations and for relation to
28 Electronic Signatures in Global and National Commerce Act,
29 repealing provisions relating to corneal transplants and
30 providing for vascularized composite allografts.

31 Amend Bill, page 1, lines 28 and 29; pages 2 through 49,
32 lines 1 through 30; page 50, lines 1 through 3; by striking out
33 all of said lines on said pages and inserting

34 Section 1. Sections 305(d)(2) and 5471 of Title 20 of the
35 Pennsylvania Consolidated Statutes are amended to read:

1 § 305. Right to dispose of a decedent's remains.

2 * * *

3 (d) Procedure.--Where a petition alleging enduring
4 estrangement, incompetence, contrary intent or waiver and
5 agreement is made within 48 hours of the death or discovery of
6 the body of the decedent, whichever is later, a court may order
7 that no final disposition of the decedent's remains take place
8 until a final determination is made on the petition. Notice to
9 each person with equal or higher precedence than the petitioner
10 to the right to dispose of the decedent's remains and to his
11 attorney if known and to the funeral home or other institution
12 where the body is being held must be provided concurrently with
13 the filing of the petition. A suitable bond may be required by
14 the court.

15 * * *

16 (2) If two [or more] persons with equal standing as next
17 of kin disagree on disposition of the decedent's remains, the
18 authority to dispose shall be determined by the court, with
19 preference given to the person who had the closest
20 relationship with the deceased. If more than two persons with
21 equal standing as next of kin disagree on disposition of the
22 decedent's remains, the authority to dispose shall be
23 determined by the majority. Where two or more persons with
24 equal standing cannot reach a majority decision, the court
25 shall make a final determination on disposition of the
26 decedent's remains.

27 * * *

28 § 5471. Example.

29 The following is an example of a document that combines a
30 living will and health care power of attorney:

31 DURABLE HEALTH CARE POWER OF ATTORNEY
32 AND HEALTH CARE TREATMENT INSTRUCTIONS

33 (LIVING WILL)

34 PART I

35 INTRODUCTORY REMARKS ON
36 HEALTH CARE DECISION MAKING

37 You have the right to decide the type of health care you
38 want.

39 Should you become unable to understand, make or
40 communicate decisions about medical care, your wishes for
41 medical treatment are most likely to be followed if you
42 express those wishes in advance by:

43 (1) naming a health care agent to decide treatment
44 for you; and

45 (2) giving health care treatment instructions to
46 your health care agent or health care provider.

47 An advance health care directive is a written set of
48 instructions expressing your wishes for medical treatment.

49 [It]

50 NOTICE ABOUT ANATOMICAL DONATION

51 This document may also contain directions regarding

1 whether you wish to donate an organ, tissue or eyes. Under
2 Pennsylvania law, donating a part of the body for
3 transplantation or research is a voluntary act. You do not
4 have to donate an organ, tissue, eye or other part of the
5 body. However, it is important that you make your wishes
6 about anatomical donation known, just as it is important to
7 make your choices about end-of-life care known.

8 Surgeons have made great strides in the field of organ
9 donation and can now transplant hands, facial tissue and
10 limbs. A hand, facial tissue and a limb are examples of what
11 is known as a vascularized composite allograft. Under
12 Pennsylvania law, explicit and specific consent to donate
13 hands, facial tissue, limbs or other vascularized composite
14 allografts must be given. You may use this document to make
15 clear your wish to donate or not to donate hands, facial
16 tissue or limbs.

17 Under Pennsylvania law, the organ donor designation on
18 the driver's license authorizes the individual to donate what
19 we traditionally think of as organs (heart, lung, liver,
20 kidney) and tissue and does not authorize the individual to
21 donate hands, facial tissue, limbs or other vascularized
22 composite allografts.

23 Detailed information about anatomical donation, including
24 the procedure used to recover organs, tissues and eyes, can
25 be found on the Department of Transportation's Internet
26 website. Information about the donation of hands, facial
27 tissue and limbs can also be found on the Department of
28 Transportation's Internet website.

29 You may wish to consult with your physician or your
30 attorney to determine whether the procedure for making an
31 anatomical donation is compatible with fulfilling your
32 specific choices for end-of-life care. In addition, you may
33 want to consult with clergy regarding whether you want to
34 donate an organ, a hand, facial tissue or limb or other part
35 of the body. It is important to understand that donating a
36 hand, limb or facial tissue may have an impact on funeral
37 arrangements and that an open casket may not be possible.

38 An advance health care directive may contain a health
39 care power of attorney, where you name a person called a
40 "health care agent" to decide treatment for you, and a living
41 will, where you tell your health care agent and health care
42 providers your choices regarding the initiation,
43 continuation, withholding or withdrawal of life-sustaining
44 treatment and other specific directions regarding end-of-life
45 care and your views regarding organ and tissue donation.

46 You may limit your health care agent's involvement in
47 deciding your medical treatment so that your health care
48 agent will speak for you only when you are unable to speak
49 for yourself or you may give your health care agent the power
50 to speak for you immediately. This combined form gives your
51 health care agent the power to speak for you only when you

1 are unable to speak for yourself. A living will cannot be
2 followed unless your attending physician determines that you
3 lack the ability to understand, make or communicate health
4 care decisions for yourself and you are either permanently
5 unconscious or you have an end-stage medical condition, which
6 is a condition that will result in death despite the
7 introduction or continuation of medical treatment. You, and
8 not your health care agent, remain responsible for the cost
9 of your medical care.

10 If you do not write down your wishes about your health
11 care in advance, and if later you become unable to
12 understand, make or communicate these decisions, those wishes
13 may not be honored because they may remain unknown to others.

14 A health care provider who refuses to honor your wishes
15 about health care must tell you of its refusal and help to
16 transfer you to a health care provider who will honor your
17 wishes.

18 You should give a copy of your advance health care
19 directive (a living will, health care power of attorney or a
20 document containing both) to your health care agent, your
21 physicians, family members and others whom you expect would
22 likely attend to your needs if you become unable to
23 understand, make or communicate decisions about medical care.
24 If your health care wishes change, tell your physician and
25 write a new advance health care directive to replace your old
26 one. If your wishes about donating an organ, tissue or eyes
27 change, tell your physician and write a new advance health
28 care directive to replace your old one. If you do not wish to
29 donate a hand, facial tissue or limb, it is important to make
30 that clear in your advance health care directive or health
31 care power of attorney, or both. It is important in selecting
32 a health care agent that you choose a person you trust who is
33 likely to be available in a medical situation where you
34 cannot make decisions for yourself. You should inform that
35 person that you have appointed him or her as your health care
36 agent and discuss your beliefs and values with him or her so
37 that your health care agent will understand your health care
38 objectives[.], including whether you want to limit or
39 withhold life-sustaining measures in the event that you
40 become permanently unconscious or have an end-stage medical
41 condition. You should also tell your health care agent
42 whether you want to donate organs, tissue, eyes or other
43 parts of the body and whether you want to make a donation of
44 your hands, facial tissue or limbs. It is important to
45 understand that if you decide to donate a hand, limb or
46 facial tissue it may impact funeral arrangements and that an
47 open casket may not be possible.

48 You may wish to consult with knowledgeable, trusted
49 individuals such as family members, your physician or clergy
50 when considering an expression of your values and health care
51 wishes. You are free to create your own advance health care

1 directive to convey your wishes regarding medical treatment.
2 The following form is an example of an advance health care
3 directive that combines a health care power of attorney with
4 a living will.

5 NOTES ABOUT THE USE OF THIS FORM

6 If you decide to use this form or create your own advance
7 health care directive, you should consult with your physician
8 and your attorney to make sure that your wishes are clearly
9 expressed and comply with the law.

10 If you decide to use this form but disagree with any of
11 its statements, you may cross out those statements.

12 You may add comments to this form or use your own form to
13 help your physician or health care agent decide your medical
14 care.

15 This form is designed to give your health care agent
16 broad powers to make health care decisions for you whenever
17 you cannot make them for yourself. It is also designed to
18 express a desire to limit or authorize care if you have an
19 end-stage medical condition or are permanently unconscious.
20 If you do not desire to give your health care agent broad
21 powers, or you do not wish to limit your care if you have an
22 end-stage medical condition or are permanently unconscious,
23 you may wish to use a different form or create your own. YOU
24 SHOULD ALSO USE A DIFFERENT FORM IF YOU WISH TO EXPRESS YOUR
25 PREFERENCES IN MORE DETAIL THAN THIS FORM ALLOWS OR IF YOU
26 WISH FOR YOUR HEALTH CARE AGENT TO BE ABLE TO SPEAK FOR YOU
27 IMMEDIATELY. In these situations, it is particularly
28 important that you consult with your attorney and physician
29 to make sure that your wishes are clearly expressed[.],
30 including whether you want to limit or withhold life-
31 sustaining measures in the event that you become permanently
32 unconscious or have an end-stage medical condition and
33 whether you wish to donate a part of the body for
34 transplantation or research. You should also clearly express
35 whether or not you wish to donate hands, facial tissue or
36 limbs.

37 This form allows you to tell your health care agent your
38 goals if you have an end-stage medical condition or other
39 extreme and irreversible medical condition, such as advanced
40 Alzheimer's disease. Do you want medical care applied
41 aggressively in these situations or would you consider such
42 aggressive medical care burdensome and undesirable?

43 You may choose whether you want your health care agent to
44 be bound by your instructions or whether you want your health
45 care agent to be able to decide at the time what course of
46 treatment the health care agent thinks most fully reflects
47 your wishes and values.

48 If you are a woman and diagnosed as being pregnant at the
49 time a health care decision would otherwise be made pursuant
50 to this form, the laws of this Commonwealth prohibit
51 implementation of that decision if it directs that life-

1 sustaining treatment, including nutrition and hydration, be
2 withheld or withdrawn from you, unless your attending
3 physician and an obstetrician who have examined you certify
4 in your medical record that the life-sustaining treatment:

5 (1) will not maintain you in such a way as to permit the
6 continuing development and live birth of the unborn child;

7 (2) will be physically harmful to you; or

8 (3) will cause pain to you that cannot be alleviated by
9 medication.

10 A physician is not required to perform a pregnancy test on
11 you unless the physician has reason to believe that you may
12 be pregnant.

13 Pennsylvania law protects your health care agent and
14 health care providers from any legal liability for following
15 in good faith your wishes as expressed in the form or by your
16 health care agent's direction. It does not otherwise change
17 professional standards or excuse negligence in the way your
18 wishes are carried out. If you have any questions about the
19 law, consult an attorney for guidance.

20 This form and explanation is not intended to take the
21 place of specific legal or medical advice for which you
22 should rely upon your own attorney and physician.

23 PART II

24 DURABLE HEALTH CARE POWER OF ATTORNEY

25 I,, of.....
26 County, Pennsylvania, appoint the person named below to be my
27 health care agent to make health and personal care decisions
28 for me.

29 Effective immediately and continuously until my death or
30 revocation by a writing signed by me or someone authorized to
31 make health care treatment decisions for me, I authorize all
32 health care providers or other covered entities to disclose
33 to my health care agent, upon my agent's request, any
34 information, oral or written, regarding my physical or mental
35 health, including, but not limited to, medical and hospital
36 records and what is otherwise private, privileged, protected
37 or personal health information, such as health information as
38 defined and described in the Health Insurance Portability and
39 Accountability Act of 1996 (Public Law 104-191, 110 Stat.
40 1936), the regulations promulgated thereunder and any other
41 State or local laws and rules. Information disclosed by a
42 health care provider or other covered entity may be
43 redisclosed and may no longer be subject to the privacy rules
44 provided by 45 C.F.R. Pt. 164.

45 The remainder of this document will take effect when and
46 only when I lack the ability to understand, make or
47 communicate a choice regarding a health or personal care
48 decision as verified by my attending physician. My health
49 care agent may not delegate the authority to make decisions.

50 MY HEALTH CARE AGENT HAS ALL OF THE FOLLOWING POWERS
51 SUBJECT TO THE HEALTH CARE TREATMENT INSTRUCTIONS THAT FOLLOW

1 IN PART III (CROSS OUT ANY POWERS YOU DO NOT WANT TO GIVE
2 YOUR HEALTH CARE AGENT):

3 1. To authorize, withhold or withdraw medical care and
4 surgical procedures.

5 2. To authorize, withhold or withdraw nutrition (food)
6 or hydration (water) medically supplied by tube through my
7 nose, stomach, intestines, arteries or veins.

8 3. To authorize my admission to or discharge from a
9 medical, nursing, residential or similar facility and to make
10 agreements for my care and health insurance for my care,
11 including hospice and/or palliative care.

12 4. To hire and fire medical, social service and other
13 support personnel responsible for my care.

14 5. To take any legal action necessary to do what I have
15 directed.

16 6. To request that a physician responsible for my care
17 issue a do-not-resuscitate (DNR) order, including an out-of-
18 hospital DNR order, and sign any required documents and
19 consents.

20 7. To authorize or refuse to authorize donation of what
21 we traditionally think of as organs (for example, heart,
22 lung, liver, kidney), tissue, eyes or other parts of the
23 body.

24 8. To authorize or refuse to authorize donation of
25 hands, facial tissue, limbs or other vascularized composite
26 allografts.

27 APPOINTMENT OF HEALTH CARE AGENT

28 I appoint the following health care agent:

29 Health Care Agent:.....
30 (Name and relationship)

31 Address:.....

32

33 Telephone Number: Home..... Work.....

34 E-mail:.....

35 IF YOU DO NOT NAME A HEALTH CARE AGENT, HEALTH CARE PROVIDERS
36 WILL ASK YOUR FAMILY OR AN ADULT WHO KNOWS YOUR PREFERENCES
37 AND VALUES FOR HELP IN DETERMINING YOUR WISHES FOR TREATMENT.
38 NOTE THAT YOU MAY NOT APPOINT YOUR DOCTOR OR OTHER HEALTH
39 CARE PROVIDER AS YOUR HEALTH CARE AGENT UNLESS RELATED TO YOU
40 BY BLOOD, MARRIAGE OR ADOPTION.

41 If my health care agent is not readily available or if my
42 health care agent is my spouse and an action for divorce
43 is filed by either of us after the date of this document,
44 I appoint the person or persons named below in the order
45 named. (It is helpful, but not required, to name
46 alternative health care agents.)

47 First Alternative Health Care Agent:.....
48 (Name and relationship)

49 Address:.....

50

51 Telephone Number: Home..... Work.....

1 E-mail:.....
 2 Second Alternative Health Care Agent:.....
 3 (Name and relationship)
 4 Address:.....
 5
 6 Telephone Number: Home..... Work.....
 7 E-mail:.....
 8 GUIDANCE FOR HEALTH CARE AGENT (OPTIONAL) GOALS
 9 If I have an end-stage medical condition or other extreme
 10 irreversible medical condition, my goals in making medical
 11 decisions are as follows (insert your personal priorities
 12 such as comfort, care, preservation of mental function,
 13 etc.):.....
 14
 15
 16
 17 SEVERE BRAIN DAMAGE OR BRAIN DISEASE
 18 If I should suffer from severe and irreversible brain
 19 damage or brain disease with no realistic hope of significant
 20 recovery, I would consider such a condition intolerable and
 21 the application of aggressive medical care to be burdensome.
 22 I therefore request that my health care agent respond to any
 23 intervening (other and separate) life-threatening conditions
 24 in the same manner as directed for an end-stage medical
 25 condition or state of permanent unconsciousness as I have
 26 indicated below.
 27 Initials.....I agree
 28 Initials.....I disagree
 29 PART III
 30 HEALTH CARE TREATMENT INSTRUCTIONS IN THE EVENT
 31 OF END-STAGE MEDICAL CONDITION
 32 OR PERMANENT UNCONSCIOUSNESS
 33 (LIVING WILL)
 34 The following health care treatment instructions exercise
 35 my right to make my own health care decisions. These
 36 instructions are intended to provide clear and convincing
 37 evidence of my wishes to be followed when I lack the capacity
 38 to understand, make or communicate my treatment decisions:
 39 IF I HAVE AN END-STAGE MEDICAL CONDITION (WHICH WILL
 40 RESULT IN MY DEATH, DESPITE THE INTRODUCTION OR CONTINUATION
 41 OF MEDICAL TREATMENT) OR AM PERMANENTLY UNCONSCIOUS SUCH AS
 42 AN IRREVERSIBLE COMA OR AN IRREVERSIBLE VEGETATIVE STATE AND
 43 THERE IS NO REALISTIC HOPE OF SIGNIFICANT RECOVERY, ALL OF
 44 THE FOLLOWING APPLY (CROSS OUT ANY TREATMENT INSTRUCTIONS
 45 WITH WHICH YOU DO NOT AGREE):
 46 1. I direct that I be given health care treatment to
 47 relieve pain or provide comfort even if such treatment might
 48 shorten my life, suppress my appetite or my breathing, or be
 49 habit forming.
 50 2. I direct that all life prolonging procedures be
 51 withheld or withdrawn. You may want to consult with your

physician and attorney in order to determine whether your designated choices regarding end-of-life care are compatible with anatomical donation. In order to donate an organ your body may need to be maintained on artificial support after you have been declared dead to facilitate anatomical donation. Detailed information about the procedure for being declared brain dead or dead by lack of cardiac function and information about organ donation can be found on the Department of Transportation's publicly accessible Internet website.

3. I specifically do not want any of the following as life prolonging procedures: (If you wish to receive any of these treatments, write "I do want" after the treatment)

heart-lung resuscitation (CPR).....
mechanical ventilator (breathing machine).....
dialysis (kidney machine).....
surgery.....
chemotherapy.....
radiation treatment.....
antibiotics.....

Please indicate whether you want nutrition (food) or hydration (water) medically supplied by a tube into your nose, stomach, intestine, arteries, or veins if you have an end-stage medical condition or are permanently unconscious and there is no realistic hope of significant recovery.

(Initial only one statement.)

TUBE FEEDINGS

.....I want tube feedings to be given

OR

NO TUBE FEEDINGS

.....I do not want tube feedings to be given.

4. I specifically do not want to be on artificial support after I am declared dead.....

HEALTH CARE AGENT'S USE OF INSTRUCTIONS

(INITIAL ONE OPTION ONLY).

.....My health care agent must follow these instructions.

OR

.....These instructions are only guidance.

My health care agent shall have final say and may override any of my instructions. (Indicate any exceptions).....

If I did not appoint a health care agent, these instructions shall be followed.

LEGAL PROTECTION

Pennsylvania law protects my health care agent and health care providers from any legal liability for their good faith actions in following my wishes as expressed in this form or in complying with my health care agent's direction. On behalf of myself, my executors and heirs, I further hold my health

care agent and my health care providers harmless and indemnify them against any claim for their good faith actions in recognizing my health care agent's authority or in following my treatment instructions.

[ORGAN DONATION (INITIAL ONE OPTION ONLY.)

..... I consent to donate my organs and tissues at the time of my death for the purpose of transplant, medical study or education. (Insert any limitations you desire on donation of specific organs or tissues or uses for donation of organs and tissues.)

OR

..... I do not consent to donate my organs or tissues at the time of my death.]

SIGNATURE.....

INFORMATION ABOUT ANATOMICAL DONATION

Donating an organ or other part of the body is a voluntary act. Under Pennsylvania law, you do not have to donate an organ or any other part of your body. It is important to know the effect of organ donation on your decisions about end-of-life care so that your wishes about end-of-life care will be fulfilled. If someone wishes to become an organ donor, the person may be kept on artificial support after the person has been declared dead to facilitate anatomical donation. Detailed information about the procedure for recovering organs and other parts of the body and detailed information about brain death and cardiac death may be found on the Department of Transportation's publicly accessible Internet website.

Under Pennsylvania law, the organ donor designation on the driver's license authorizes the individual to donate what we traditionally think of as organs (for example, heart, lung, liver, kidney) and tissue and does not authorize the individual to donate hands, facial tissue, limbs or other vascularized composite allografts.

Under Pennsylvania law, explicit and specific consent to donate hands, facial tissue, limbs and other vascularized composite allografts is needed. Donation of these parts of the body is voluntary. Information about the procedure to transplant hands, facial tissue and limbs can be found on the Department of Transportation's publicly accessible Internet website. It is important to know that donating a hand, limb or facial tissue may impact funeral arrangements and that an open casket may not be possible.

ORGAN DONATION

.....I consent to making an anatomical gift. This gift does not include hands, facial tissue, limbs or other vascularized composite allografts. I understand that if I want to donate a hand, facial tissue, limb or other vascularized composite allograft, there is another place in this document for me to do so. I also understand the hospital

1 may provide artificial support, which may include a
2 ventilator, after I am declared dead in order to facilitate
3 donation. I consent to making a gift of the following parts
4 of my body for transplantation or research (please insert any
5 limitations you desire on donation of specific organs or
6 tissues or eyes or any limitation on the use of a donated
7 part of the body):

8
9
10
11 SIGNATURE.....DATE.....

12 GIFT OF HANDS, FACIAL TISSUE, LIMBS AND OTHER VASCULARIZED
13 COMPOSITE ALLOGRAFTS

14I consent to making a gift of my hands, facial
15 tissue, limbs or other vascularized composite allografts. I
16 also understand that I have the option of requesting
17 reconstruction of my body in preparation for burial and that
18 anonymity of identity may not be able to be protected in the
19 case of donation of hands, facial tissue or limbs. I also
20 understand that burial arrangements may be affected and that
21 an open casket may not be possible. I also understand that
22 the hospital may provide artificial support, which may
23 include a ventilator, after I am declared dead in order to
24 facilitate donation.

25 Please insert any limitations you desire on donation of
26 hands, facial tissue, limbs or other vascularized composite
27 allografts and whether you request reconstructive surgery
28 before burial:

29
30
31
32 SIGNATURE.....DATE.....

33If I have consented to making a gift of an organ,
34 hand, facial tissue, limb or other part of my body which
35 requires the provision of artificial support by the hospital
36 in order to facilitate donation, I request that medicine be
37 provided so I do not feel pain during the testing or recovery
38 process.

39 SIGNATURE.....DATE.....

40I do not consent to donating my organs, tissues
41 or any other part of my body, including hands, facial tissue,
42 limbs or other vascularized composite allografts. This
43 provision serves as a refusal to donate any part of my body.
44 This provision also serves as a revocation of any prior
45 decision I have made to donate organs, tissues or other parts
46 of my body, including hands, facial tissue, limbs or other
47 vascularized composite allograft made in a prior document,
48 including a driver's license, will, power of attorney, health
49 care power of attorney or other document.

50 SIGNATURE.....DATE.....

51 Having carefully read this document, I have signed it

1 this.....day of....., 20..., revoking all previous
2 health care powers of attorney and health care treatment
3 instructions.

4
5 (SIGN FULL NAME HERE FOR HEALTH CARE POWER OF ATTORNEY AND
6 HEALTH CARE TREATMENT INSTRUCTIONS)

7 WITNESS:.....

8 WITNESS:.....

9 Two witnesses at least 18 years of age are required by
10 Pennsylvania law and should witness your signature in each
11 other's presence. A person who signs this document on behalf
12 of and at the direction of a principal may not be a witness.
13 (It is preferable if the witnesses are not your heirs, nor
14 your creditors, nor employed by any of your health care
15 providers.)

16 NOTARIZATION (OPTIONAL)

17 (Notarization of document is not required by Pennsylvania
18 law, but if the document is both witnessed and notarized, it
19 is more likely to be honored by the laws of some other
20 states.)

21 On this.....day of, 20..., before me
22 personally appeared the aforesaid declarant and principal, to
23 me known to be the person described in and who executed the
24 foregoing instrument and acknowledged that he/she executed
25 the same as his/her free act and deed.

26 IN WITNESS WHEREOF, I have hereunto set my hand and
27 affixed my official seal in the County of....., State
28 of..... the day and year first above written.

29

30 Notary Public

My commission expires

31 Section 2. The definitions of "advisory committee," "bank or
32 storage facility," "decedent," "organ procurement organization"
33 and "part" in section 8601 of Title 20 are amended and the
34 section is amended by adding definitions to read:
35 § 8601. Definitions.

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

39 * * *

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

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

43 "Advisory committee." The Organ and Tissue Donation Advisory
44 Committee established under section 8622 (relating to The
45 Governor Robert P. Casey Memorial Organ and Tissue Donation
46 Awareness Trust Fund).

47 "Agent." Any of the following:

48 (1) A health care agent authorized to make health care
49 decisions on a principal's behalf under Subchapter C of
50 Chapter 54 (relating to health care agents and
51 representatives).

1 (2) An individual expressly authorized to make an
2 anatomical gift on a principal's behalf by any other record
3 signed by the principal.

4 "Anatomical donation." An anatomical gift.

5 "Anatomical gift." A donation of all or part of a human body
6 to take effect after the donor's death for the purpose of
7 transplantation, therapy, research or education. The term does
8 not include vascularized composite allografts, including a human
9 hand, facial tissue or limb.

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

13 * * *

14 "Decedent." [A deceased individual, including a stillborn
15 infant or fetus.] A deceased individual whose body or part is or
16 may be the source of an anatomical gift. The term includes a
17 stillborn infant and, subject to restrictions imposed by other
18 laws, a fetus. The term does not include a blastocyst, embryo or
19 fetus that is the subject of an induced abortion.

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

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

29 * * *

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

32 "Eye bank." A person that is licensed, accredited or
33 regulated under Federal or State law to engage in the recovery,
34 screening, testing, processing, storage or distribution of human
35 eyes or portions of human eyes.

36 * * *

37 "Hospital administrator." Any individual appointed by a
38 hospital's governing body to act on behalf of the hospital's
39 governing body in the overall management of the hospital. The
40 term includes a designee of the individual who is authorized by
41 the hospital to exercise supervisory authority.

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

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

46 "Organ." A human kidney, liver, heart, lung, pancreas,
47 esophagus, stomach, small or large intestine, or any portion of
48 the gastrointestinal tract. The term also includes blood vessels
49 recovered during the recovery of such organs if the vessels are
50 intended for use in organ transplantation and labeled, "for use
51 in organ transplant only." The term does not include a human

1 hand, facial tissue, limb or other vascularized composite
2 allograft.

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

8 "Part." Organs, tissues, eyes, bones, arteries, blood, other
9 fluids and any other portions of a human body. The term does not
10 include a human hand, facial tissue, limb or other vascularized
11 composite allograft.

12 * * *

13 "Person authorized or obligated to dispose of a decedent's
14 body." Any of the following, without regard to order of
15 priority:

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

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

20 (3) A hospital administrator of the hospital where the
21 decedent's death was pronounced.

22 (4) Any other person authorized or under obligation to
23 dispose of the decedent's body.

24 * * *

25 "Reasonably available." Able to be contacted by an organ
26 procurement organization with reasonable effort and willing and
27 able to exercise the decision to refuse or to authorize
28 anatomical donation in a timely manner consistent with existing
29 medical criteria necessary to make an anatomical gift.

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

32 "Record." Information that is inscribed on a tangible medium
33 or that is stored in an electronic or other medium and is
34 retrievable in perceivable form.

35 "Recovery procedure." The process of removing cells, tissues
36 and organs from a decedent. The term does not include the
37 recovery of vascularized composite allografts, including
38 recovery of a human hand, facial tissue or limb.

39 * * *

40 "Tissue." A portion of the human body other than an organ or
41 an eye. The term does not include blood, unless the blood is
42 donated for the purpose of research or education. The term also
43 does not include vascularized composite allografts, including a
44 human hand, facial tissue or limb.

45 "Tissue bank." A person that is licensed, accredited or
46 regulated under Federal or State law to engage in the recovery,
47 screening, testing, processing, storage or distribution of
48 tissue.

49 * * *

50 "Vascularized composite allograft." A human hand, facial
51 tissue, limb and other parts of the body which require blood

1 flow by surgical connection of blood vessels to function after
2 transplantation and which contain multiple tissue types,
3 recovered from a human donor as an anatomical or structural
4 unit, minimally manipulated, for homologous use, not combined
5 with another article such as a device, susceptible to ischemia
6 and susceptible to allograft rejection. The term also includes a
7 part of the body specified as a vascularized composite allograft
8 by the United States Secretary of Health and Human Services by
9 regulation, in accordance with the National Organ Transplant Act
10 (Public Law 98-507, 42 U.S.C. § 274e). The term does not include
11 an organ, part, eye or tissue.

12 Section 3. Title 20 is amended by adding a section to read:
13 § 8610. Scope.

14 Nothing in this subchapter shall be construed to authorize
15 the donation of vascularized composite allografts, including
16 hand, facial tissue and limb transplants, from an individual
17 whose death is imminent or who has died at the
18 hospital. Donation of vascularized composite allografts from an
19 individual whose death is imminent or who has died at the
20 hospital shall be in accordance with Subchapter D (relating to
21 hands, facial tissue, limbs and other vascularized composite
22 allografts).

23 Section 4. Section 8611(a), (b) and (c) of Title 20 are
24 amended and the section is amended by adding subsections to
25 read:

26 § 8611. Persons who may execute anatomical gift.

27 (a) General rule.--Any individual of sound mind and 18 years
28 of age or more may give all or any part of his body for any
29 purpose specified in section 8612 (relating to persons who may
30 become donees; purposes for which anatomical gifts may be made),
31 the gift to take effect upon death. Any agent acting under a
32 power of attorney, health care power of attorney or other
33 document which expressly authorizes the agent to make anatomical
34 gifts may effectuate a gift for any purpose specified in section
35 8612. Any individual who is a minor and 16 years of age or older
36 may effectuate a gift for any purpose specified in section 8612,
37 provided parental or guardian consent is deemed given. Parental
38 or guardian consent shall be noted on the minor's donor card,
39 application for the donor's learner's permit or driver's license
40 or other document of gift. A gift of the whole body shall be
41 invalid unless made in writing at least 15 days prior to the
42 date of death or consent is obtained from the legal next of kin.
43 Where there are adult children of the deceased who are not
44 children of the surviving spouse, their consent shall also be
45 required for a gift of the whole body for anatomical study.

46 (b) [Others entitled] Entitled to donate anatomy of
47 decedent.--[Any] Subject to subsection (b.1), any of the
48 following persons who are reasonably available, in order of
49 priority stated, when persons in prior classes are not
50 reasonably available at the time of death, and in the absence of
51 [actual notice of contrary indications] known objections by the

1 decedent or [actual notice of opposition] by a member of [the
2 same or] a prior class, may give all or any part of the
3 decedent's body, with the exception of a vascularized composite
4 allograft, for any purpose specified in section 8612:

- 5 (1) The spouse.
- 6 (2) An adult son or daughter.
- 7 (3) Either parent.
- 8 (4) An adult brother or sister.
- 9 (5) A guardian of the person of the decedent at the time
10 of his death.

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

13 (1) An agent of the decedent at the time of death if the
14 agent is expressly authorized to make the gift.

15 (2) The spouse of the decedent, unless an action for
16 divorce is pending.

17 (3) An adult child of the decedent.

18 (4) A parent of the decedent.

19 (5) An adult sibling of the decedent.

20 (6) An adult grandchild of the decedent.

21 (7) A grandparent of the decedent.

22 (8) Any other person related to the decedent by blood,
23 marriage or adoption.

24 (9) A guardian of the person of the decedent.

25 (10) A person authorized or obligated to dispose of the
26 decedent's body.

27 (b.1) Anatomical gifts prohibited in certain
28 circumstances.--An anatomical gift may not be made by a person
29 set forth in subsection (b) if, before an incision has been made
30 to remove a part from the decedent's body or before invasive
31 procedures have begun to prepare an intended recipient, any of
32 the following apply:

33 (1) The district attorney or a law enforcement officer
34 notifies the organ procurement organization that the person
35 is a suspect or a person of interest in causing the disease,
36 illness, injury or condition of the decedent.

37 (2) The district attorney or a law enforcement officer
38 notifies the organ procurement organization that the person
39 is the subject of a protection from abuse order, an order
40 issued under 42 Pa.C.S. Ch. 62A (relating to protection of
41 victims of sexual violence or intimidation), or similar order
42 from a court that was issued to the decedent.

43 (3) The district attorney or a law enforcement officer
44 notifies the organ procurement organization that the person
45 has been arrested or detained in connection with the
46 condition of the decedent.

47 (b.2) Documentation required.--The organ procurement
48 organization shall document the procedure taken to contact any
49 of the persons in subsection (b). Such documentation shall be
50 maintained by the organ procurement organization for a minimum
51 of six years.

1 (b.3) No obligation to make gift.--The following apply:

2 (1) A person described in subsection (b) (2), (3), (4),
3 (5), (6), (7), (8), (9) or (10) does not have a legal
4 obligation to consent to making a gift of the decedent's body
5 or part of the body.

6 (2) Before making a gift of the decedent's body or part
7 of the body, a person described in subsection (b) (2), (3),
8 (4), (5), (6), (7), (8), (9) or (10) is encouraged to
9 consider the decedent's moral and religious beliefs regarding
10 anatomical donation, if those beliefs are known to the
11 person.

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

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

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

17 (ii) The donee knows that a gift by a member of a
18 class is opposed by a reasonably available member of [the
19 same or] a prior class[, the donee shall not accept the
20 gift].

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

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

26 * * *

27 Section 5. Section 8612 of Title 20 is amended to read:

28 § 8612. Persons who may become donees; purposes for which
29 anatomical gifts may be made.

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

32 (1) Any hospital, surgeon or physician for medical or
33 dental education, research, advancement of medical or dental
34 science, therapy or transplantation.

35 (2) Any accredited medical or dental school, college or
36 university for education, research, advancement of medical or
37 dental science or therapy.

38 (3) Any bank or storage facility for medical or dental
39 education, research, advancement of medical or dental
40 science, therapy or transplantation.

41 (4) Any specified individual for therapy or
42 transplantation needed by him.

43 (5) The board.]

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

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

47 (i) A hospital.

48 (ii) An accredited medical school, dental school,
49 college or university.

50 (iii) The board.

51 (iv) An organ procurement organization.

1 (v) Any other appropriate person as permitted by
2 law.

3 (2) Subject to subsection (b), an individual designated
4 by the person making the anatomical gift if the individual is
5 the recipient of the part.

6 (3) An eye bank or a tissue bank.

7 (4) An organ procurement organization.

8 (b) Directed donation.--If an anatomical gift to an
9 individual under subsection (a)(2) cannot be transplanted into
10 the individual, the part shall pass in accordance with
11 subsection (c) if authorized by the person making the anatomical
12 gift.

13 (c) Organ for transplant or therapy.--An anatomical gift of
14 an organ for transplantation or therapy, other than an
15 anatomical gift under subsection (a)(2), shall pass to the organ
16 procurement organization.

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

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

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

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

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

27 (e) Multiple purposes.--If there is more than one purpose of
28 an anatomical gift set forth in the document of gift but the
29 purposes are not set forth in any priority, the gift shall be
30 used for transplantation or therapy, if suitable and enumerated
31 in the document of gift, and shall pass to the appropriate organ
32 procurement organization. If the gift cannot be used for
33 transplantation or therapy, the gift may be used for other
34 lawful purposes enumerated in the document of gift.

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

40 Section 6. Section 8613(d) and (e) of Title 20 are amended
41 and the section is amended by adding subsections to read:

42 § 8613. Manner of executing anatomical gifts.

43 * * *

44 (b.1) Other means.--An anatomical gift may be made by a
45 statement or symbol indicating that the donor has made an
46 anatomical gift, which shall be recorded in a donor registry or
47 on the donor's driver's license or identification card. If an
48 anatomical gift is indicated on a driver's license or an
49 identification card, the anatomical gift is not invalidated by
50 revocation, suspension, expiration or cancellation of:

51 (1) the driver's license under 75 Pa.C.S. Ch. 15

1 (relating to licensing of drivers); or
2 (2) the identification card by the Department of
3 Transportation.

4 * * *

5 [(d) Designation of person to carry out procedures.--
6 Notwithstanding section 8616(b) (relating to rights and duties
7 at death), the donor may designate in his will, card or other
8 document of gift the surgeon or physician to carry out the
9 appropriate procedures. In the absence of a designation or if
10 the designee is not available, the donee or other person
11 authorized to accept the gift may employ or authorize any
12 surgeon or physician for the purpose, or, in the case of a gift
13 of eyes, he may employ or authorize a person who is a funeral
14 director licensed by the State Board of Funeral Directors, an
15 eye bank technician or medical student, if the person has
16 successfully completed a course in eye enucleation approved by
17 the State Board of Medical Education and Licensure, or an eye
18 bank technician or medical student trained under a program in
19 the sterile technique for eye enucleation approved by the State
20 Board of Medical Education and Licensure to enucleate eyes for
21 an eye bank for the gift after certification of death by a
22 physician. A qualified funeral director, eye bank technician or
23 medical student acting in accordance with the terms of this
24 subsection shall not have any liability, civil or criminal, for
25 the eye enucleation.]

26 (d.1) Reliance.--Subject to the provisions of section
27 8616(c) (relating to rights and duties at death), a person may
28 rely on a document of gift or amendment to a document of gift as
29 being valid unless that person knows that the document of gift
30 was not validly executed or was revoked.

31 (e) Consent not necessary.--[If a donor card, donor driver's
32 license, living will, durable power of attorney or other
33 document of gift evidencing a gift of organs or tissue has been
34 executed,]

35 (1) Subject to paragraph (2), a donor's gift of all or
36 any part of the donor's body, including a designation in a
37 registry on a driver's license or identification card, donor
38 card, advance health care directive, will or other document
39 of gift, may not be revoked by the next of kin or other
40 persons identified in section 8611(b). The consent of any
41 person [designated in section 8611(b)] at the time of the
42 donor's death or immediately thereafter is not necessary to
43 render the gift valid and effective. This paragraph shall not
44 be construed to permit the donation of a vascularized
45 composite allograft.

46 (2) An agent, only if expressly authorized in writing in
47 a power of attorney, advance health care directive, health
48 care power of attorney or other document to override the
49 decedent's instructions on the making of an anatomical gift,
50 may revoke the decedent's gift. This paragraph shall not be
51 construed to permit the donation of a vascularized composite

1 allograft.

2 * * *

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

5 (1) this subchapter;

6 (2) the law of the state or country where it was
7 executed; or

8 (3) the law of the state or country where, at the time
9 of execution of the document of gift, the person making the
10 anatomical gift:

11 (i) is domiciled;

12 (ii) has a place of residence; or

13 (iii) is a citizen.

14 (h) Choice of law.--If a document of gift is valid under
15 this section, the law of this Commonwealth governs
16 interpretation of the document.

17 (i) Rights and protections for certain individuals.--

18 (1) An individual who is in need of an anatomical gift
19 shall not be deemed ineligible to receive an anatomical gift
20 solely because of the individual's physical or mental
21 disability, except to the extent that the physical or mental
22 disability has been found by a physician or surgeon following
23 an individualized evaluation of the individual to be
24 medically significant to the provision of the anatomical
25 gift. If an individual has the necessary support system to
26 assist the individual in complying with posttransplant
27 medical requirements, an individual's inability to
28 independently comply with those requirements shall not be
29 deemed to be medically significant.

30 (2) As used in this subsection, "disability" shall have
31 the same meaning as in the Americans with Disabilities Act of
32 1990 (Public Law 101-336, 104 Stat. 327).

33 Section 7. Sections 8616(b), (c) and (d), 8617, 8619, 8621,
34 8622, 8623 and 8624 of Title 20 are amended to read:

35 § 8616. Rights and duties at death.

36 * * *

37 (b) Physicians.--The time of death shall be determined by a
38 physician who tends the donor at his death or, if none, the
39 physician who certifies the death. [The physician or person who
40 certifies death or any of his professional partners or
41 associates shall not participate in the procedures for removing
42 or transplanting a part.]

43 (c) Certain liability limited.--[A] The following shall
44 apply:

45 (1) Subject to paragraph (2), a person who acts in good
46 faith in accordance with the terms of this subchapter or with
47 the anatomical gift laws of another state or a foreign
48 country [is not] shall not be liable for damages in any civil
49 action or subject to prosecution in any criminal proceeding
50 for [his] the person's act.

51 (2) The immunity from civil liability provided under

1 paragraph (1) shall not extend to acts or omissions resulting
2 from gross negligence, recklessness or intentional misconduct
3 of the person.

4 (3) Neither a person making an anatomical gift nor a
5 donor's estate shall be liable for injury or damage that
6 results from the making or use of the anatomical gift. In
7 determining whether an anatomical gift has been made, amended
8 or revoked under this subchapter, a person may rely upon
9 representations of an individual listed in section 8611(b)
10 regarding the individual's relationship to the donor or
11 decedent unless the person knows that the representation is
12 untrue.

13 (d) Law on autopsies applicable.--[The] Subject to the
14 provisions of section 8626 (relating to facilitation of
15 anatomical gift from decedent whose death is under
16 investigation), the provisions of this subchapter are subject to
17 the laws of this Commonwealth prescribing powers and duties with
18 respect to autopsies. Notwithstanding 18 Pa.C.S. Ch. 91
19 (relating to criminal history record information), an organ
20 procurement organization is authorized to obtain a copy of an
21 autopsy report in a timely fashion upon request and payment of
22 reasonable copying fees.

23 § 8617. Requests for anatomical gifts.

24 [(a) Procedure.--On or before the occurrence of each death
25 in an acute care general hospital, the hospital shall make
26 contact with the regional organ procurement organization in
27 order to determine the suitability for organ, tissue and eye
28 donation for any purpose specified under this subchapter. This
29 contact and the disposition shall be noted on the patient's
30 medical record.

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

37 (c) Donor card.--Notwithstanding any provision of law to the
38 contrary, the intent of a decedent to participate in an organ
39 donor program as evidenced by the possession of a validly
40 executed donor card, donor driver's license, living will,
41 durable power of attorney or other document of gift shall not be
42 revoked by any member of any of the classes specified in section
43 8611(b).

44 (d) Identification of potential donors.--Each acute care
45 general hospital shall develop within one year of the date of
46 final enactment of this section, with the concurrence of the
47 hospital medical staff, a protocol for identifying potential
48 organ and tissue donors. It shall require that, at or near the
49 time of every individual death, all acute care general hospitals
50 contact by telephone their regional organ procurement
51 organization to determine suitability for organ, tissue and eye

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

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

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

35 (e) Tissue procurement.--

36 (1) The first priority use for all tissue shall be
37 transplantation.

38 (2) Upon Department of Health approval of guidelines
39 pursuant to subsection (f)(1)(ii), all acute care general
40 hospitals shall select at least one tissue procurement
41 provider. A hospital shall notify the regional organ
42 procurement organization of its choice of tissue procurement
43 providers. If a hospital chooses more than one tissue
44 procurement provider, it may specify a rotation of referrals
45 by the organ procurement organization to the designated
46 tissue procurement providers.

47 (3) Until the Department of Health has approved
48 guidelines pursuant to subsection (f)(1)(ii), tissue
49 referrals at each hospital shall be rotated in a proportion
50 equal to the average rate of donors recovered among the
51 tissue procurement providers at that hospital during the two-

1 year period ending August 31, 1994.

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

5 (i) The number of tissue donors.

6 (ii) The number of tissue procurements for
7 transplantation.

8 (iii) The number of tissue procurements recovered
9 for research by each tissue procurement provider
10 operating in this Commonwealth.]

11 (a) Procedure.--A hospital located in this Commonwealth
12 shall notify the applicable designated organ procurement
13 organization or a third party designated by the organ
14 procurement organization of an individual whose death is
15 imminent or who has died in the hospital. Notification shall be
16 made in a timely manner to ensure that examination, evaluation
17 and ascertainment of donor status as specified in subsection (d)
18 may be completed within a time frame compatible with the
19 donation of organs and tissues for transplant. The notification
20 shall be made without regard to whether the person has executed
21 an advance health care directive.

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

30 (c) Document of gift.--

31 (1) If the individual whose death is imminent or has
32 died in the hospital has a document of gift which authorizes
33 an anatomical donation, including registration with the
34 Donate Life PA Registry, the organ procurement organization
35 representative or the designated requestor shall attempt to
36 notify a person listed in section 8611(b) (relating to
37 persons who may execute anatomical gift) of the gift.

38 (2) If no document of gift is known to the organ
39 procurement organization representative or the designated
40 requestor, then the organ procurement organization
41 representative or the designated requestor shall ask the
42 persons listed in section 8611(b) whether the individual had
43 a validly executed document of gift. If there is no evidence
44 of an anatomical gift by the individual, the organ
45 procurement organization representative or the designated
46 requestor shall notify a person listed in section 8611(b) of
47 the option to donate organs and tissues. The notification
48 shall be performed in accordance with a protocol that
49 encourages discretion and sensitivity to family circumstances
50 in all discussions regarding donations of organs and tissues.
51 The protocol shall take into account the individual's

1 religious beliefs or nonsuitability for organ and tissue
2 donation.

3 (3) The hospital administrator or the hospital
4 administrator's designated representative shall indicate in
5 the medical record of the individual the information under
6 this paragraph. The information shall also be communicated by
7 the hospital administrator or the hospital administrator's
8 designee to the organ procurement organization or designated
9 requestor, as appropriate:

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

12 (ii) if a gift was made, the name of the person
13 granting the gift and that person's relationship to the
14 individual; and

15 (iii) all of the following:

16 (A) Whether the individual executed an advance
17 health care directive, living will, power of
18 attorney, health care power of attorney, will or
19 other document, including a do-not-resuscitate (DNR)
20 order, evidencing an intention to limit, withdraw or
21 withhold life-sustaining measures.

22 (B) Whether the individual indicated in an
23 advance health care directive, living will, power of
24 attorney, health care power of attorney, will or
25 other document an intention to limit the anatomical
26 gifts of the individual in any way, including the
27 intention to limit an anatomical gift to parts of the
28 body which do not require a ventilator or other life-
29 sustaining measures, or to deny making or refusing to
30 make an anatomical gift.

31 (C) Whether the individual amended or revoked an
32 anatomical gift in any document specified in this
33 subparagraph or in any other document or in
34 accordance with section 8615 (relating to amendment
35 or revocation of gift).

36 (d) Testing.--

37 (1) This subsection shall apply if:

38 (i) a hospital refers an individual whose death is
39 imminent or who has died in a hospital to an organ
40 procurement organization;

41 (ii) the organ procurement organization, in
42 consultation with the individual's attending physician or
43 a designee, determines based upon a medical record review
44 and other information supplied by the individual's
45 attending physician or a designee, that the individual
46 may be a prospective donor; and

47 (iii) the individual has not:

48 (A) indicated in an advance health care
49 directive, a living will, power of attorney, health
50 care power of attorney, will, DNR order or other
51 document an intention to either limit the anatomical

1 gifts of the individual to parts of the body which do
2 not require a ventilator or other life-sustaining
3 measures or indicated an intention to deny making or
4 refusing to make an anatomical gift; or

5 (B) amended or revoked an anatomical gift in any
6 document specified in subsection (c)(3) or in any
7 other document or in accordance with section 8615.

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

10 (i) Subject to the wishes expressed by the
11 individual under subsection (c)(3), the organ procurement
12 organization may conduct a blood or tissue test or
13 minimally invasive examination which is reasonably
14 necessary to evaluate the medical suitability of a part
15 that is or may be the subject of an anatomical gift.
16 Testing and examination under this subparagraph shall
17 comply with a denial or refusal to make an anatomical
18 gift or any limitation expressed by the individual with
19 respect to the part of the body to donate or a limitation
20 in the provision of a ventilator or other life-sustaining
21 measures, as specified in subsection (c)(3) or a
22 revocation or amendment to an anatomical gift as
23 specified in a document in subsection (c)(3) or in any
24 other document or in accordance with section 8615. The
25 results of tests and examinations under this subparagraph
26 shall be used or disclosed only:

27 (A) to evaluate medical suitability for donation
28 and to facilitate the donation process; and

29 (B) as required or permitted by law.

30 (ii) Subject to the wishes expressed by the
31 individual under subsection (c)(3), the hospital may not
32 withdraw or withhold any measures which are necessary to
33 maintain the medical suitability of the part until the
34 organ procurement organization or designated requestor,
35 as appropriate, has had the opportunity to advise the
36 applicable persons as set forth in section 8611(b) of the
37 option to make an anatomical gift and has received or
38 been denied authorization to proceed with recovery of the
39 part.

40 (e) Testing after death.--Subject to the individual's wishes
41 under subsection (c)(3), after an individual's death, a person
42 to whom an anatomical gift may pass under section 8612 (relating
43 to persons who may become donees; purposes for which anatomical
44 gifts may be made) may conduct a test or examination which is
45 reasonably necessary to evaluate the medical suitability of the
46 body or part for its intended purpose.

47 (f) Guidelines.--

48 (1) The Department of Health, in consultation with organ
49 procurement organizations, tissue procurement providers and
50 the Hospital Association of Pennsylvania, donor recipients
51 and family appointed pursuant to section 8622(c)(3) (relating

1 to The Governor Robert P. Casey Memorial Organ and Tissue
2 Donation Awareness Trust Fund) shall, within six months of
3 the effective date of this [chapter] subchapter, do all of
4 the following:

5 (i) Establish guidelines regarding efficient
6 procedures facilitating the delivery of anatomical gift
7 donations from receiving hospitals to organ procurement
8 organizations and tissue providers.

9 (ii) Develop guidelines to assist hospitals in the
10 selection and designation of tissue procurement
11 providers.

12 (2) Each organ procurement organization and each tissue
13 procurement provider operating within this Commonwealth
14 shall, within six months of the effective date of this
15 chapter, file with the Department of Health, for public
16 review, its operating protocols.

17 (f.1) Scope.--The determination under this section may
18 include copying of records necessary to determine the medical
19 suitability of the body or part. This subsection includes
20 medical, dental and other health-related records.

21 (f.2) Recipients.--

22 (1) Subject to the provisions of this subchapter, the
23 rights of the person to whom a part passes under section 8612
24 shall be superior to the rights of all others with respect to
25 the part. The person may accept or reject an anatomical gift
26 in whole or in part.

27 (2) Subject to the wishes of the individual under
28 subsection (c)(3) and this subchapter, a person that accepts
29 an anatomical gift of an entire body may allow embalming,
30 burial or cremation and the use of remains in a funeral
31 service. If the gift is of a part, the person to whom the
32 part passes under section 8612, upon the death of the
33 individual and before embalming, burial or cremation, shall
34 cause the part to be removed without unnecessary mutilation.

35 (f.3) Physicians.--

36 (1) Neither the physician who attends the individual at
37 death nor the physician who determines the time of the
38 individual's death may participate in the procedures for
39 removing or transplanting a part from the individual.

40 (2) Subject to the individual's wishes under subsection
41 (c)(3), and subject to paragraph (1), a physician or
42 technician may remove a donated part from the body of an
43 individual that the physician or technician is qualified to
44 remove.

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

46 (1) A hospital shall enter into agreements or
47 affiliations with organ procurement organizations for
48 coordination of procurement and use of anatomical gifts.

49 (2) The organ procurement organization, hospital
50 personnel and other individuals involved in the anatomical
51 donation process shall limit the testing and examination of

1 the individual under this section so as to comply with the
2 wishes of the individual under subsection (c)(3).

3 (g) Death record review.--

4 (1) The Department of Health shall make annual death
5 record reviews at acute care general hospitals to determine
6 their compliance with subsection [(d)] (a).

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

9 (i) The [Department of Health] department shall
10 select to carry out the review the Commonwealth-licensed
11 organ procurement organization designated by the [Health
12 Care Financing Administration] Centers for Medicare and
13 Medicaid Services for the region within which the acute
14 care general hospital is located. For an organ
15 procurement organization to be selected under this
16 subparagraph, the organization must not operate nor have
17 an ownership interest in an entity which provides all of
18 the functions of a tissue procurement provider.

19 (ii) If there is no valid selection under
20 subparagraph (i) or if the organization selected under
21 subparagraph (i) is unwilling to carry out the review,
22 the department shall select to carry out the review any
23 other Commonwealth-licensed organ procurement
24 organization. For an organ procurement organization to be
25 selected under this subparagraph, the organization must
26 not operate nor have an ownership interest in an entity
27 which provides all of the functions of a tissue
28 procurement provider.

29 (iii) If there is no valid selection under
30 subparagraph (ii) or if the organization selected under
31 subparagraph (ii) is unwilling to carry out the review,
32 the department shall carry out the review using trained
33 department personnel.

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

36 (4) If the department finds, on the basis of a review
37 under this subsection, that a hospital is not in compliance
38 with subsection [(d)] (a), the department may impose an
39 administrative fine of up to \$500 for each instance of
40 noncompliance. A fine under this paragraph is subject to 2
41 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
42 Commonwealth agencies) and Ch. 7 Subch. A (relating to
43 judicial review of Commonwealth agency action). Fines
44 collected under this paragraph shall be deposited into the
45 fund.

46 (5) An organ procurement organization may, upon request
47 and payment of associated fees, obtain certified copies of
48 death records of a donor from the Division of Vital Records
49 of the department.

50 (h) Definitions.--As used in this section, the following
51 words and phrases shall have the meanings given to them in this

subsection:

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

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

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

(a) General rule.--The Department of Transportation shall redesign the driver's license and identification card application system to process requests for information regarding consent of the individual to organ or tissue donation. The following question shall be asked on both the application for a driver's license or identification card and on the organ donor designation at a photo center:

Pennsylvania strongly supports organ and tissue donation because of its life-saving and life-enhancing opportunities.

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

Only an affirmative response of an individual shall be noted on the front of the driver's license or identification card and shall clearly indicate the individual's intent to donate his organs or tissue. [A notation on an individual's driver's license or identification card that he intends to donate his organs or tissue is deemed sufficient to satisfy all

requirements for consent to organ or tissue donation.] Nothing in this section shall be construed to authorize a donation of a hand, facial tissue, limb or other vascularized composite allograft. The Department of Transportation shall record and store all donor designations in the Donate Life PA Registry. Subject to an individual's wishes as expressed in a document listed under sections 8613(e)(2) (relating to manner of executing anatomical gifts) and to the individual's wishes under section 8617(c)(3) (relating to requests for anatomical gifts), the recorded and stored designation is sufficient to satisfy all requirements for consent to organ and tissue donation. The recorded and stored designation is not a public record subject to disclosure as defined in section 102 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(a.1) Informational pamphlet.--The following apply:

(1) Within 180 days of the effective date of this subsection, the Department of Transportation shall provide an informational pamphlet about organ donation, tissue donation and donation of vascularized composite allografts to each applicant for:

(i) an original or a renewal driver's license or identification card;

(ii) a learner's permit; and

1 (iii) an original or renewal vehicle registration.
2 (2) The informational pamphlet shall explain in English
3 and in Spanish:
4 (i) that under Pennsylvania law, donation of organs,
5 tissues and vascularized composite allografts is a
6 voluntary act;
7 (ii) the difference between organs, tissues and
8 vascularized composite allografts;
9 (iii) that under Pennsylvania law, explicit and
10 specific consent is needed to donate a vascularized
11 composite allograft;
12 (iv) that under Pennsylvania law, the request for a
13 vascularized composite allograft must be made separately
14 from a request for organs and tissues;
15 (v) that the organ donor designation on the driver's
16 license authorizes the individual to donate organs and
17 tissue and does not authorize the individual to donate a
18 vascularized composite allograft;
19 (vi) that more information about organ donation,
20 tissue donation and donation of vascularized composite
21 allografts, including information about the procedure for
22 recovering organs and other parts of the body and
23 information about being declared dead through brain death
24 and dead by lack of cardiac function, can be found on the
25 Department of Transportation's publicly accessible
26 Internet website; and
27 (vii) that, before deciding whether to have an organ
28 donor designation placed on the driver's license, the
29 individual may consult with the individual's physician,
30 attorney or clergy.
31 (3) The Governor Robert P. Casey Memorial Organ and
32 Tissue Donation Awareness Trust Fund shall reimburse the
33 Department of Transportation for the costs incurred in the
34 development and implementation of the informational pamphlet
35 program.
36 (b) Electronic access.--The organ procurement organizations
37 designated by the Federal Government in the Commonwealth of
38 Pennsylvania as part of the nationwide organ procurement network
39 [may] shall be given 24-hour-a-day electronic access to
40 information necessary to confirm an individual's organ donor
41 status through the Department of Transportation's driver
42 licensing database. Necessary information shall include the
43 individual's name, address, date of birth, driver's license
44 number and organ donor status. Notwithstanding 75 Pa.C.S. § 6114
45 (relating to limitation on sale, publication and disclosure of
46 records), the Department of Transportation is authorized to
47 provide the organ procurement organizations, after a written
48 agreement between the Department of Transportation and the organ
49 procurement organizations is first obtained, with the foregoing
50 information. The organ procurement organization shall not use
51 such information for any purpose other than to confirm an

individual's organ donor status at or near or after an individual's death. The organ procurement organizations shall not be assessed the fee for such information prescribed by 75 Pa.C.S. § 1955(a) (relating to information concerning drivers and vehicles).

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

(a) Driver's license.--

(1) Beginning as soon as practicable, but no later than [January 1, 1995] 10 months after the effective date of this paragraph, the Department of Transportation shall provide an applicant for an original or renewal driver's license or identification card the opportunity to make a contribution of \$1 to the fund. The contribution shall be added to the regular fee for an original or renewal driver's license or identification card. One contribution may be made for each issuance or renewal of a license or identification card. Contributions shall be used exclusively for the purposes set out in section 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund).

(2) The Department of Transportation shall monthly determine the total amount designated under this section and shall report that amount to the State Treasurer, who shall transfer that amount to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund.

(3) The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund shall reimburse the Department of Transportation for the costs incurred in the initial development and implementation of the contribution program, as well as any additional costs that may arise from changes that are agreed to by both the Department of Transportation and the advisory committee.

(b) Vehicle registration.--[The]

(1) Beginning as soon as practicable, but no later than 10 months after the effective date of this paragraph, the Department of Transportation shall provide an applicant for a renewal vehicle registration the opportunity to make a contribution of \$1 to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund. The contribution shall be added to the regular fee for a renewal of a vehicle registration. One contribution may be made for each renewal vehicle registration. Contributions shall be used exclusively for the purposes described in section 8622.

(2) The Department of Transportation shall monthly determine the total amount designated under this section and shall report that amount to the State Treasurer, who shall transfer that amount to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund.

(3) The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund shall reimburse the [department for the initial costs incurred in the development

1 and implementation of the contribution program under this
2 subsection.] Department of Transportation for the costs
3 incurred in the initial development and implementation of the
4 contribution program, as well as any additional costs that
5 may arise from changes that are agreed to by both the
6 Department of Transportation and the advisory committee.

7 (4) The General Fund shall reimburse the Department of
8 Transportation for the actual annual operating costs of the
9 program for vehicle registrations as described in this
10 subsection [subject to the following limits: For the first
11 fiscal year during which this subsection is effective, the
12 General Fund shall reimburse the Department of Transportation
13 for the actual operating costs of the program in this
14 subsection up to a maximum of \$100,000. For each fiscal year
15 thereafter, the General Fund shall reimburse the Department
16 of Transportation for the actual operating costs of the
17 program in this subsection in an amount not to exceed the
18 prior year's actual operating costs on a full fiscal year
19 basis plus 3%. The amounts approved by the Governor as
20 necessary are hereby appropriated from the General Fund for
21 this purpose].

22 (c) Internet website.--The following shall become effective
23 within 365 days of the effective date of this subsection:

24 (1) The Department of Transportation's publicly
25 accessible Internet website shall provide hyperlinks through
26 which persons may electronically make voluntary contributions
27 of at least \$1 to the fund. At a minimum, the hyperlinks
28 shall be provided in accordance with subsections (a)(1) and
29 (b)(1).

30 (2) The Department of Transportation shall provide
31 detailed information on the Department of Transportation's
32 publicly accessible Internet website, written in nonlegal
33 terms, in both English and Spanish, about anatomical
34 donation, organ donation and vascularized composite
35 allografts. The website shall include the following:

36 (i) The laws of this Commonwealth, including a
37 statement that donating a part of the body is voluntary.

38 (ii) The risks and benefits of organ donation,
39 tissue donation and donation of eyes.

40 (iii) The risks and benefits of donating a hand,
41 facial tissue or limb or other vascularized composite
42 allografts. The information about risks and benefits
43 shall include information that the appearance of the
44 donor will be significantly altered after recovery and
45 that the surgical recovery team may perform
46 reconstructive surgery to prepare for burial. In
47 addition, the information shall include a statement that
48 a vascularized composite allograft may impact burial
49 arrangements and that an open casket may not be possible.
50 The information shall also include and clearly explain:

51 (A) The difference between hand, facial tissue

1 and limb donation and organ donation.

2 (B) The procedure for recovery of a hand, facial
3 tissue or limb or other vascularized composite
4 allograft.

5 (C) That Pennsylvania law requires explicit and
6 specific and separate consent to donate hands, facial
7 tissue or limbs or other vascularized composite
8 allografts from the donor and, when applicable, the
9 donor's family.

10 (D) The procedure needed to obtain consent from
11 family members for a donation of organs, tissues and
12 eyes and the procedure needed to obtain consent from
13 families for hands, facial tissue, limbs or other
14 vascularized composite allografts.

15 (E) That donation of hands, facial tissue or
16 limbs or other vascularized composite allografts is
17 voluntary.

18 (F) That documents such as living wills, advance
19 health care directives, health care powers of
20 attorney and powers of attorney may be used to permit
21 or deny making a donation of hands, facial tissue or
22 limbs or other vascularized composite allografts,
23 depending upon the individual's wishes.

24 (G) The procedure used by hospitals and organ
25 procurement organizations to effectuate a donation of
26 hands, facial tissue or limbs or other vascularized
27 composite allografts.

28 (H) That if the individual intends to withhold
29 or withdraw life-sustaining measures through an
30 advance health care directive, living will, health
31 care power of attorney, power of attorney or other
32 document, that the choices of the individual for end-
33 of-life care may be incompatible with donation of
34 what we traditionally think of as organs (heart,
35 lung, liver, kidney) and hands, facial tissue or
36 limbs or other vascularized composite allografts.

37 (I) That the individual may wish to consult with
38 a physician, attorney or clergy before making the
39 decision to make a donation of what we traditionally
40 think of as organs (heart, lung, liver, kidney) or a
41 donation of hands, facial tissue or limbs or other
42 vascularized composite allografts.

43 (iv) The laws of this Commonwealth regarding living
44 wills, health care powers of attorney, advance health
45 care directives, do-not-resuscitate orders and other
46 documents which can be used to provide, limit or deny
47 making or revoking an anatomical donation or a donation
48 of hands, facial tissue or limbs or other vascularized
49 composite allografts.

50 (v) A description regarding:

51 (A) the procedure used by hospitals and organ

1 procurement organizations to ask family members if
2 the individual will make an anatomical donation;

3 (B) if the individual may be or is an organ,
4 tissue or eye donor, the types of tests that will be
5 performed on the individual by a hospital, organ
6 procurement organization, tissue procurement
7 organization, eye bank or tissue bank and the
8 procedure used to recover organs, tissues and eyes,
9 including any differences in the procedure used to
10 recover organs; and

11 (C) brain death and cardiac death.

12 (3) The Department of Transportation shall provide the
13 material listed in paragraph (2) in written form, in English
14 and in Spanish, at all driver's license centers across this
15 Commonwealth. Additionally, the Department of Transportation
16 shall provide such materials upon request, including the
17 request of another agency of the Commonwealth.

18 (4) The Department of Health shall provide conspicuous
19 notice on the Department of Health's publicly accessible
20 Internet website that detailed information about anatomical
21 donation and donation of a hand, facial tissue, limb or other
22 vascularized composite allograft may be found on the
23 Department of Transportation's publicly accessible Internet
24 website. The Department of Health shall also provide a
25 conspicuous hyperlink to the information set forth in
26 subsection (c)(2).

27 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue
28 Donation Awareness Trust Fund.

29 (a) Establishment.--All contributions received by the
30 Department of Transportation under section 8621 (relating to The
31 Governor Robert P. Casey Memorial Organ and Tissue Donation
32 Awareness Trust Fund contributions) [and the Department of
33 Revenue under section 8618 (relating to voluntary contribution
34 system)] and the Department of Health under section 8617
35 (relating to requests for anatomical gifts) shall be deposited
36 into a special fund in the State Treasury to be known as The
37 Governor Robert P. Casey Memorial Organ and Tissue Donation
38 Awareness Trust Fund, which is hereby established.

39 (b) Appropriation.--All moneys deposited in the fund and
40 interest which accrues from those funds are appropriated on a
41 continuing basis subject to the approval of the Governor to
42 compensate the Department of Transportation, the Department of
43 Health and the Department of Revenue for actual costs related to
44 implementation of this chapter, including all costs of the
45 [Organ Donation Advisory Committee] advisory committee created
46 in subsection [(c)] (c.1). Any remaining funds are appropriated
47 subject to the approval of the Governor for the following
48 purposes:

49 (1) [10%] Ten percent of the total fund may be expended
50 annually by the Department of Health for reasonable hospital
51 and other medical expenses, funeral expenses and incidental

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

13 (2) [50%] Fifty percent may be expended for grants to
14 certified organ procurement organizations for the development
15 and implementation of organ donation awareness programs in
16 this Commonwealth. The Department of Health shall develop and
17 administer this grant program, which is hereby established.

18 (3) [15%] Fifteen percent may be expended by the
19 Department of Health, in cooperation with certified organ
20 procurement organizations, for the [Project-Make-A-Choice]
21 Project Make-A-Choice program, which shall include
22 information pamphlets designed by the Department of Health
23 relating to organ donor awareness and the laws regarding
24 organ donation, public information and public education about
25 contributing to the fund when obtaining or renewing a
26 driver's license and when completing a State individual
27 income tax return form. Project Make-A-Choice shall also
28 provide the Internet website address and a hyperlink for the
29 Department of Transportation's Internet website under section
30 8621(c)(2), and a statement that detailed information about
31 anatomical donation and donation of a hand, facial tissue,
32 limb or other vascularized composite allograft, can be found
33 on the Department of Transportation's publicly accessible
34 Internet website. The Department of Health shall also design
35 information pamphlets about donation of hands, facial tissue
36 and limbs and other vascularized composite allografts.
37 Project Make-a-Choice shall also provide information about
38 donation of hands, facial tissue or limbs or other
39 vascularized composite allografts, which shall include the
40 topics set forth in section 8621(c)(2).

41 (4) [25%] Twenty-five percent may be expended by the
42 Department of Education for the implementation of organ
43 donation awareness programs in the secondary schools in this
44 Commonwealth.

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

47 (1) Two representatives of organ procurement
48 organizations.

49 (2) Two representatives of tissue procurement providers.

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

1 (4) Three representatives of acute care hospitals.
2 (5) One representative of the Department of Health.
3 (6) One representative of eye banks.
4 All members shall be appointed by the Governor. Appointments
5 shall be made in a manner that provides representation of the
6 northwest, north central, northeast, southwest, south central
7 and southeast regions of this Commonwealth. Members shall serve
8 five-year terms. The Governor may reappoint advisory committee
9 members for successive terms. Members of the advisory committee
10 shall remain in office until a successor is appointed and
11 qualified. If vacancies occur prior to completion of a term, the
12 Governor shall appoint another member in accordance with this
13 subsection to fill the unexpired term. The advisory committee
14 shall meet at least biannually to review progress in the area of
15 organ and tissue donation in this Commonwealth, recommend
16 education and awareness training programs, recommend priorities
17 in expenditures from the fund and advise the Secretary of Health
18 on matters relating to administration of the fund. The advisory
19 committee shall recommend legislation as it deems necessary to
20 fulfill the purposes of this chapter. The advisory committee
21 shall submit a report concerning its activities and progress to
22 the General Assembly within 30 days prior to the expiration of
23 each legislative session. The Department of Health shall
24 reimburse members of the advisory committee for all necessary
25 and reasonable travel and other expenses incurred in the
26 performance of their duties under this section.]

27 (c.1) Advisory committee.--

28 (1) The Organ and Tissue Donation Advisory Committee is
29 established. Each member shall be appointed by the Governor.
30 Membership shall be as follows:

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

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

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

34 (iv) The Secretary of the Commonwealth or a
35 designee.

36 (v) One representative from each designated organ
37 procurement organization.

38 (vi) Two representatives of tissue procurement
39 providers.

40 (vii) Six members representative of:

41 (A) organ, tissue and eye recipients;

42 (B) families of recipients;

43 (C) donors; and

44 (D) families of donors.

45 (viii) Two representatives of acute care hospitals
46 which are:

47 (A) licensed in this Commonwealth; and

48 (B) members of the Statewide association
49 representing the interests of hospitals throughout
50 this Commonwealth.

51 (ix) One representative of eye banks.

1 (x) One representative of community health
2 organizations.

3 (xi) One elected county coroner of this
4 Commonwealth.

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

7 (3) For a member under paragraph (1)(v), (vi), (vii),
8 (viii), (ix), (x) and (xi), the following apply:

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

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

15 (iii) The Governor may reappoint an advisory
16 committee member for successive terms.

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

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

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

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

27 (ii) Recommend education and awareness training
28 programs.

29 (iii) Recommend priorities in expenditures from the
30 fund.

31 (iv) Advise the Secretary of Health on matters
32 relating to administration of the fund.

33 (v) Recommend legislation as necessary to fulfill
34 the purposes of this subchapter.

35 (5) The advisory committee shall submit a report
36 concerning the advisory committee's activities and progress
37 to the Secretary of the Senate and the Chief Clerk of the
38 House of Representatives by October 31 of each even-numbered
39 year. A final written report under this section shall be
40 adopted at a public meeting. The report shall be a public
41 record under the act of February 14, 2008 (P.L.6, No.3),
42 known as the Right-to-Know Law.

43 (6) The Department of Health shall reimburse members of
44 the advisory committee only for necessary and reasonable
45 travel and other expenses incurred in the performance of the
46 advisory committee members' duties under this subsection.

47 (d) Reports.--The Department of Health, the Department of
48 Transportation and the Department of Education shall submit an
49 annual report to the General Assembly on expenditures of fund
50 moneys and any progress made in [reducing the number of
51 potential donors who were not identified] increasing the number

1 of donor designations.

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

6 (f) Lead Commonwealth agency.--The Department of Health
7 shall be the lead Commonwealth agency responsible for promoting
8 organ, tissue and eye donation in this Commonwealth and shall
9 coordinate activities among other collaborating Commonwealth
10 agencies.

11 § 8623. Confidentiality requirement.

12 [The identity of the donor and of the recipient may not be
13 communicated unless expressly authorized by the recipient and
14 next of kin of the decedent.]

15 (a) General rule.--Except as provided in subsection (b), no
16 organ procurement organization, eye bank or tissue bank may
17 divulge any individually identifiable information acquired in
18 the course of performing the organization's or banks'
19 responsibilities under this chapter except for the purposes of
20 facilitating organ, eye or tissue donation and transplantation
21 or as otherwise required under applicable laws.

22 (b) Donors and recipients.--An organ procurement
23 organization, eye bank or tissue bank may communicate
24 individually identifiable information of the donor and recipient
25 if expressly authorized by:

26 (1) the recipient; and

27 (2) if the donor is alive, the donor, or if the donor is
28 deceased, the next of kin of the donor.

29 § 8624. Prohibited activities.

30 [(a) Affiliates.--No organ procurement organization selected
31 by the Department of Health under section 8617(g) (relating to
32 requests for anatomical gifts) to conduct annual death reviews
33 may use that review authority or any powers or privileges
34 granted thereby to coerce or attempt to coerce a hospital to
35 select the organization or any tissue procurement provider
36 contractually affiliated with the organization as a designated
37 tissue procurement provider under section 8617(e).]

38 (b) Unfair acts.--No organ procurement organization or
39 tissue procurement provider may disparage the services or
40 business of other procurement providers by false or misleading
41 representations of fact, engage in any other fraudulent conduct
42 to influence the selection by a hospital of a qualified tissue
43 procurement provider nor engage in unlawful competition or
44 discrimination. This subsection is not intended to restrict or
45 preclude any organ procurement organization or tissue
46 procurement provider from marketing or promoting its services in
47 the normal course of business.]

48 (c) Organ procurement organizations, eye banks and tissue
49 banks.--

50 (1) An organ procurement organization, an eye bank or a
51 tissue bank shall not do any of the following:

1 (i) Disparage the services or business of another
2 organ procurement organization, eye bank or tissue bank
3 by false or misleading representations of fact.

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

6 (iii) Engage in unlawful competition or
7 discrimination.

8 (2) This subsection is not intended to restrict or
9 preclude an organ procurement organization from marketing or
10 promoting the organ procurement organization's services in
11 the normal course of business.

12 (d) Funeral establishments.--

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

15 (i) remove body parts from a corpse;

16 (ii) permit others to remove body parts from a
17 corpse; or

18 (iii) use funeral establishment facilities to remove
19 body parts from a corpse.

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

21 (i) Removal is permissible if it is:

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

24 (B) authorized in writing by a family member,
25 guardian or other person responsible for disposition
26 of the body.

27 (ii) Notwithstanding any other provision of law, if
28 a donation is authorized under this subchapter, a
29 designated organ procurement organization and a
30 Pennsylvania nonprofit eye bank accredited by the Eye
31 Bank Association of America may recover donated ocular
32 tissue, including the whole eye, cornea and sclera, and
33 associated blood specimens at a funeral establishment.

34 (3) If a funeral director is notified by a person
35 authorized to make donations under this subchapter that the
36 person wishes to donate body parts from a corpse within the
37 funeral director's custody, the funeral director shall
38 immediately notify the organ procurement organization
39 designated to serve that region.

40 Section 8. Title 20 is amended by adding sections to read:

41 § 8625. Promotion of organ and tissue donation; Donate Life PA
42 Registry established.

43 (a) Promotion.--The Department of Transportation shall
44 ensure access by residents of this Commonwealth to an Internet-
45 based interface which promotes anatomical donation and enables
46 residents 18 years of age or older who hold a Pennsylvania
47 driver's license or identification card to register as an organ
48 or tissue donor and have that designation immediately integrated
49 into the current database maintained by the department. This
50 section shall not permit consent to donation of hands, facial
51 tissue or limbs or other vascularized composite allografts. The

1 Internet-based interface shall clearly state that the Internet-
2 based interface only permits consent to anatomical donation. The
3 Internet-based interface shall also state where on the
4 Department of Transportation's publicly accessible Internet
5 website detailed information about organ donation, tissue
6 donation, donation of eyes and donation of hands, facial tissue
7 or limbs or other vascularized composite allografts may be found
8 and shall provide a hyperlink to that information.

9 (b) Paper form.--

10 (1) Within one year of the effective date of this
11 section, the Department of Transportation shall establish a
12 system which allows an individual who has been issued a
13 driver's license or identification card to add the
14 individual's anatomical donor designation to the Donate Life
15 PA Registry by submitting a form to the department. This
16 section shall not permit consent to donation of hands, facial
17 tissue or limbs or other vascularized composite allografts.
18 The Internet-based interface shall clearly state that the
19 interface only permits consent to anatomical donation. The
20 interface shall also state where on the Department of
21 Transportation's publicly accessible Internet website
22 detailed information about organ donation, tissue donation,
23 eye donation and donation of hands, facial tissue or limbs or
24 other vascularized composite allografts may be found and
25 shall provide a hyperlink to that information.

26 (2) Registration shall be provided at no cost to the
27 registrant.

28 (c) Donate Life PA Registry.--That portion of the database
29 maintained by the Department of Transportation for recording
30 donor designations and Internet-based interface established in
31 this section shall be known as the Donate Life PA Registry.

32 (d) Form and content.--The form and content of the Internet-
33 based interface shall be determined and maintained by the
34 Department of Transportation, after consulting with the
35 designated organ procurement organizations. The Internet-based
36 interface shall not permit consent to donation of hands, facial
37 tissue or limbs or other vascularized composite allografts.

38 (e) Conflict.--

39 (1) If there is a conflict between the wishes of an
40 individual whose death is imminent or has died in a hospital
41 as set forth in section 8617 (relating to requests for
42 anatomical gifts) which indicate an intention to limit,
43 revoke or deny making an anatomical gift and information
44 entered into the Donate Life PA Registry which indicates the
45 individual has a designation on the individual's driver's
46 license of organ donor, the decision made by the individual
47 which is more recent in time shall prevail. In the event that
48 the information in the Donate Life PA Registry designating
49 the individual as an organ donor is the more recent in time,
50 then any limitation expressed by the individual regarding an
51 intention to limit the anatomical gift to parts of the body

1 recorded in a document in section 8617(c)(3) or any other
2 document shall prevail.

3 (2) Subject to paragraph (1), registration by a donor
4 shall constitute sufficient authorization to donate organs
5 and tissues for transplantation and therapy. Authorization of
6 another person shall not be necessary to effectuate the
7 anatomical gift.

8 (f) Technology.--An information technology system adopted by
9 the Department of Transportation after the effective date of
10 this section shall continue to accommodate the inclusion of
11 donor designation information into the database and the ongoing
12 operation of the Donate Life PA Registry.

13 § 8626. Facilitation of anatomical gift from decedent whose
14 death is under investigation.

15 (a) Applicability of section.--This section shall apply in
16 all cases when the coroner or medical examiner must determine
17 the cause of death and whether the death may have resulted from
18 criminal acts or criminal neglect.

19 (b) Full denial of recovery of organs.--If a coroner or
20 medical examiner is considering denying recovery of all of the
21 organs of a decedent, the coroner or medical examiner shall
22 comply with the procedure set forth in this subsection. The
23 following apply:

24 (1) The coroner or medical examiner or a designee shall
25 meet with a medical advisory group composed of the decedent's
26 attending physician or a designee, the transplant surgeon,
27 the forensic pathologist, if available, and the applicable
28 designated organ procurement organization at the hospital,
29 during a reasonable time consistent with organ donation and
30 preservation of forensic evidence.

31 (2) The medical advisory group shall provide the coroner
32 or medical examiner or a designee with the clinical findings
33 of testing and medical procedures performed on the decedent
34 while at the hospital.

35 (3) If, after the review of the testing and medical
36 procedures set forth in paragraph (2), the coroner or medical
37 examiner or a designee intends to deny recovery of all of the
38 decedent's organs, the coroner or medical examiner or a
39 designee must provide a written statement explaining the
40 reason for the denial. The coroner or medical examiner or a
41 designee shall ensure that the written statement is made part
42 of the coroner's or medical examiner's file. The written
43 statement shall be exempt from the act of February 14, 2008
44 (P.L.6, No.3), known as the Right-to-Know Law.

45 (c) Forms.--The coroner or medical examiner shall develop a
46 form for the purpose of stating that the coroner or medical
47 examiner has denied the recovery of all organs as set forth in
48 subsection (b). The coroner or medical examiner shall complete
49 the form when denying recovery of all of a decedent's organs as
50 set forth in subsection (b).

51 § 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 regarding the
12 provisions of this subchapter.

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

17 § 8628. Requirements for physician and nurse training relative
18 to organ and tissue donation and recovery.

19 The State Board of Medicine, the State Board of Osteopathic
20 Medicine and the State Board of Nursing shall promulgate
21 regulations requiring physicians, osteopathic physicians and
22 professional nurses to complete a two-hour course on organ and
23 tissue donation and recovery designed to address the clinical
24 aspects of the donation and recovery process as a condition of
25 license renewal. The course may include information about
26 donation of hands, facial tissue and limbs and other
27 vascularized composite allografts. The course shall be completed
28 within five years of initial licensure or within five years of
29 licensure renewal, whichever occurs first.

30 § 8629. Department of Transportation.

31 The following shall apply:

32 (1) The Secretary of Transportation shall publish notice
33 in the Pennsylvania Bulletin of the completion of the
34 Department of Transportation's:

35 (i) Internet website established under section
36 8621(c)(2) (relating to the Governor Robert P. Casey
37 Memorial Organ and Tissue Donation Awareness Trust Fund
38 contributions);

39 (ii) establishment of the Donate Life PA registry;
40 and

41 (iii) establishment of the hyperlinks to enable
42 donation of money under section 8621.

43 (2) Until the notice under paragraph (1) is published,
44 the Secretary of Transportation shall issue a statement every
45 60 days to the chairperson and minority chairperson of the
46 Judiciary Committee of the Senate and the chairperson and
47 minority chairperson of the Judiciary Committee of the House
48 of Representatives regarding the actions taken by the
49 department to complete the requirements under paragraph (1).

50 § 8630. Department of Corrections.

51 The Department of Corrections shall, in consultation with an

organ procurement organization, provide information to or make information available about anatomical donation to inmates in State correctional institutions. The information may also include information about donation of hands, facial tissue or limbs and other vascularized composite allografts. The information shall be provided or made available annually and shall include topics under section 8621(c)(2) (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund contributions).

§ 8631. Study of organ procurement organizations.

(a) Study.--The Legislative Budget and Finance Committee shall conduct a study and performance evaluation of expenditures which utilize grants from the Department of Health under section 8622(b) (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund).

(b) Date.--The study under subsection (a) shall be completed no later than two years after the effective date of this section. Copies shall be submitted to the following:

(1) The Health and Human Services Committee of the Senate.

(2) The Judiciary Committee of the Senate.

(3) The Health Committee of the House of Representatives.

(4) The Judiciary Committee of the House of Representatives.

§ 8632. Relation to Electronic Signatures in Global and National Commerce Act.

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

Section 9. Subchapter C of Chapter 86 of Title 20 is repealed:

[SUBCHAPTER C
CORNEAL TRANSPLANTS

Sec.

8641. Removal of corneal tissue permitted under certain circumstances.

8642. Limitation of liability.

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

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

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

(2) The coroner or medical examiner has made a

1 reasonable effort to contact persons listed in section 8611
2 (relating to persons who may execute anatomical gift).

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

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

8 (b) Definition.--As used in this section, the term "eye
9 bank" means a nonprofit corporation chartered under the laws of
10 this Commonwealth to obtain, store and distribute donor eyes to
11 be used by physicians or surgeons for corneal transplants,
12 research or other medical purposes and the medical activities of
13 which are directed by a physician or surgeon in this
14 Commonwealth.

15 § 8642. Limitation of liability.

16 A person who acts in good faith in accordance with the
17 provisions of this subchapter shall not be subject to criminal
18 or civil liability arising from any action taken under this
19 subchapter. The immunity provided by this section shall not
20 extend to persons if damages result from the gross negligence,
21 recklessness or intentional misconduct of the person.]

22 Section 10. Chapter 86 of Title 20 is amended by adding a
23 subchapter to read:

24 SUBCHAPTER D

25 HANDS, FACIAL TISSUE, LIMBS AND OTHER

26 VASCULARIZED COMPOSITE ALLOGRAFTS

27 Sec.

28 8651. Scope of subchapter.

29 8652. Intent of General Assembly.

30 8653. Definitions.

31 8654. Requirement of explicit, specific and separate
32 authorization.

33 8655. Agents, next of kin and other surrogate decision makers.

34 8656. Procedure for requesting hands, facial tissue, limbs and
35 other vascularized composite allografts.

36 8657. Gift of vascularized composite allograft from decedent
37 whose death is under investigation.

38 8658. Gifts of vascularized composite allografts.

39 8659. Rights and protections for certain individuals.

40 8660. Law on autopsies applicable.

41 8661. Vital records.

42 8662. Donees and vascularized composite allografts.

43 8663. Dissemination of information prohibited.

44 8664. Prohibited conduct.

45 8665. Funeral establishments.

46 8666. Limitation on liability.

47 § 8651. Scope of subchapter.

48 This subchapter applies exclusively to hands, facial tissue,
49 limbs and other vascularized composite allografts donated by an
50 individual whose death is imminent or who has died in the
51 hospital.

1 § 8652. Intent of General Assembly.

2 It is the intent of the General Assembly to provide guidance
3 to organ procurement organizations, hospitals, health care
4 professionals and the public about the donation of hands, facial
5 tissue, limbs and other vascularized composite allografts when
6 donated by an individual whose death is imminent or who has died
7 in the hospital. The General Assembly recognizes that a donation
8 of a vascularized composite allograft from an individual whose
9 death is imminent or who has died in the hospital, sometimes
10 referred to as authorization for a vascularized composite
11 allograft from a deceased donor, is a gift which must be given
12 freely. In order to be given freely, explicit and specific
13 consent must be obtained from donors or the donors' families.
14 Obtaining explicit and specific consent is the only way to
15 ensure transparency in the donation process and to preserve the
16 public trust. It is the intention of the General Assembly to
17 design policies and procedures to ensure that the donation of
18 hands, facial tissue, limbs and other vascularized composite
19 allografts from an individual whose death is imminent or who has
20 died in the hospital is only made with explicit and specific
21 consent.

22 § 8653. Definitions.

23 The following words and phrases when used in this subchapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Minor." An individual under 18 years of age.

27 "Surrogate decision maker." An individual under section
28 8611(b)(1), (2), (3), (4), (5), (6), (7) or (8) (relating to
29 persons who may execute anatomical gift).

30 § 8654. Requirement of explicit, specific and separate
31 authorization.

32 The following apply:

33 (1) An individual of sound mind who is 18 years of age
34 or older may authorize recovery of hands, facial tissue,
35 limbs and other vascularized composite allografts. The
36 authorization may be in a will, living will, health care
37 power of attorney, power of attorney or other document. In
38 order to be valid, the authorization must be in writing,
39 witnessed by two other individuals, and explicitly and
40 specifically state that the individual authorizes the
41 recovery of the individual's hands, facial tissue, limbs or
42 other vascularized composite allografts. The authorization
43 must be provided separately from an anatomical donation. If
44 the individual explicitly, specifically and separately
45 authorizes such a gift and requests reconstructive surgery,
46 then the surgery shall be provided at no cost to the
47 individual or the individual's family or representative. Any
48 limitations on the provision of the gift authorized by the
49 individual shall be honored by the hospital, a donee under
50 section 8662 (relating to donees and vascularized composite
51 allografts), health care professionals involved in the

1 recovery and transplantation process, the organ procurement
2 organizations and any other person involved with the donation
3 and recovery of a vascularized composite allograft. If the
4 individual authorizes a gift of hands, facial tissue, limbs
5 or other vascularized composite allografts, then
6 authorization of a surrogate decision maker shall not be
7 necessary.

8 (2) It is unlawful for a minor to authorize the donation
9 of the minor's hands, facial tissue, limbs or other
10 vascularized composite allografts. In the case of a minor
11 whose death is imminent or who has died in a hospital, a
12 parent or guardian may authorize donation of the minor's
13 hands, facial tissue, limbs or other vascularized composite
14 allografts if the parent or guardian does not have actual
15 notice of contrary indications on the part of the minor with
16 respect to making a donation of the minor's hands, facial
17 tissue, limbs or other vascularized composite allografts and
18 there is no actual notice of opposition by the other parent.
19 If the parent or guardian has actual notice of contrary
20 indications or there is actual notice of opposition by the
21 other parent, then the parent or guardian is not authorized
22 to make such a gift. The hospital, health care professionals,
23 organ procurement organization and a donee under section 8662
24 shall not effectuate a donation if the minor evidenced
25 contrary indications regarding donation of the minor's hands,
26 facial tissue, limbs or other vascularized composite
27 allografts or there is actual notice of opposition by the
28 other parent.

29 (3) A gift of a vascularized composite allograft under
30 this section may be revoked or amended at any time and in the
31 manner specified in section 8615 (relating to amendment or
32 revocation of gift).

33 § 8655. Agents, next of kin and other surrogate decision
34 makers.

35 The following apply:

36 (1) Subject to paragraph (2), a surrogate decision
37 maker, in order of priority stated when persons in prior
38 classes are not available at the time of death, and in the
39 absence of actual notice of contrary indications by the
40 decedent as set forth in subparagraph (ii) or evidence of a
41 prohibition, amendment, revocation or denial of a gift of a
42 vascularized composite allograft as set forth in subparagraph
43 (i) or actual notice of opposition by a member of the same or
44 a prior class, may authorize the donation of hands, facial
45 tissue, limbs or other vascularized composite allografts of
46 an individual who is at least 18 years of age and whose death
47 is imminent or who has died in a hospital if:

48 (i) there is no evidence of a prohibition,
49 amendment, revocation or denial of a gift of hands,
50 facial tissue, limbs and other vascularized composite
51 allografts in a living will, will, advance health care

1 directive, health care power of attorney, power of
2 attorney or other document of the individual; and
3 (ii) there is no actual notice of contrary
4 indications by the individual regarding such a gift in
5 any form, including through statements made by the
6 individual to health care professionals, to family
7 members or to the surrogate decision maker. If the
8 surrogate decision maker has actual notice of contrary
9 indications on the part of the individual with respect to
10 making a donation of the individual's hands, facial
11 tissue, limbs or other vascularized composite allografts,
12 then it is unlawful for the surrogate decision maker to
13 make such a gift. The hospital, health care
14 professionals, donees under section 8662 (relating to
15 donees and vascularized composite allografts) and organ
16 procurement organization shall not effectuate a donation
17 if the individual evidenced contrary indications
18 regarding donation of the individual's hands, facial
19 tissue, limbs or other vascularized composite allografts.

20 (2) A surrogate decision maker may not authorize a gift
21 of hands, facial tissue, limbs or other vascularized
22 composite allografts on the part of an individual under
23 paragraph (1), if any of the following apply:

24 (i) The district attorney or a law enforcement
25 officer notifies the organ procurement organization that
26 the surrogate decision maker is a suspect or person of
27 interest in causing the disease, illness, injury,
28 condition or death of the individual.

29 (ii) The district attorney or a law enforcement
30 officer notifies the organ procurement organization that
31 the surrogate decision maker is the subject of a
32 protection from abuse order, an order issued under 42
33 Pa.C.S. Ch. 62A (relating to protection of victims of
34 sexual violence or intimidation) or similar order from a
35 court that was issued to the individual.

36 (iii) The district attorney or a law enforcement
37 officer notifies the organ procurement organization that
38 the surrogate decision maker has been arrested or
39 detained in connection with the disease, illness, injury,
40 condition or death of the individual.

41 § 8656. Procedure for requesting hands, facial tissue, limbs
42 and other vascularized composite allografts.

43 The following applies to organ procurement organizations,
44 health care professionals, donees under section 8662 (relating
45 to donees and vascularized composite allografts) and other
46 persons who request a gift of hands, facial tissue, limbs and
47 other vascularized composite allografts from a surrogate
48 decision maker:

49 (1) The request for a donation must be made separately
50 from a request for donation under Subchapter B (relating to
51 express anatomical gifts). The request must explicitly and

1 specifically identify donations of hands, facial tissue,
2 limbs and other vascularized composite allografts as distinct
3 from traditional organs such as heart, liver, or lung or
4 tissues under Subchapter B. The discussion must educate the
5 surrogate decision maker about the process of recovery of
6 vascularized composite allografts and must clearly define and
7 explain all of the following:

8 (i) What a vascularized composite allograft is, the
9 benefit to the recipient and precisely what will be
10 recovered.

11 (ii) That any prior generalized authorization for an
12 anatomical gift under Subchapter B does not include a
13 gift of a hand, facial tissue, limb or other vascularized
14 composite allograft.

15 (iii) That permission for a gift of a hand, facial
16 tissue, limb or other vascularized composite allograft
17 must be given separately from the permission for a gift
18 under Subchapter B.

19 (iv) That the appearance of the individual whose
20 death is imminent or who has died in a hospital will be
21 significantly altered after the recovery of the gift and
22 that upon request the recovery team will perform
23 reconstructive surgery on the individual at no cost to
24 the individual, the individual's family or surrogate
25 decision maker. In addition, the discussion must explain
26 that the recovery of vascularized composite allografts
27 may impact burial arrangements and that an open casket
28 may not be possible.

29 (v) That the identity of the individual whose death
30 is imminent or who has died in a hospital may not be able
31 to be protected due to fingerprints or birthmarks.

32 (2) A deceased donor authorization form shall be used
33 which specifically identifies the option of authorizing a
34 gift of hands, facial tissue, limbs and other vascularized
35 composite allografts. The form must include a provision which
36 states that the surrogate decision maker and family of the
37 individual whose death is imminent or who has died in a
38 hospital understands the relevant anatomical details of the
39 donation, the alteration of the appearance of the individual,
40 including the impact of the recovery of vascularized
41 composite allografts upon funeral arrangements, and that,
42 despite the best efforts of the organ procurement
43 organization, the anonymity of the individual may not be
44 protected. Further, the form must provide information about
45 the nature of the discussion required under paragraph (1),
46 including:

47 (i) the date and time of the discussion;

48 (ii) for individuals who hold a professional or
49 occupational license, the names, addresses, telephone
50 numbers and professional or occupational license numbers
51 of the individuals who made the request for the donation

1 and provided the information under paragraph (1); and
2 (iii) a summary of the topics discussed and which
3 surrogate decision maker authorized the gift of a
4 vascularized composite allograft.
5 § 8657. Gift of vascularized composite allograft from decedent
6 whose death is under investigation.

7 (a) Applicability.--This section shall apply in all cases
8 when the coroner or medical examiner must determine the cause of
9 death and whether the death may have resulted from criminal acts
10 or criminal neglect.

11 (b) Denial of recovery of vascularized composite
12 allograft.--If a coroner or medical examiner is considering
13 denying recovery of the vascularized composite allograft of an
14 individual, the coroner or medical examiner shall comply with
15 the procedure set forth in this subsection. The following apply:

16 (1) The coroner or medical examiner or a designee shall
17 meet with a medical advisory group composed of the
18 individual's attending physician or a designee, the
19 transplant surgeon, the forensic pathologist, if available,
20 and the applicable designated organ procurement organization
21 at the hospital, during a reasonable time consistent with
22 donation and preservation of forensic evidence.

23 (2) The medical advisory group shall provide the coroner
24 or medical examiner or a designee with the clinical findings
25 of testing and medical procedures performed on the individual
26 while at the hospital.

27 (3) If, after the review of the testing and medical
28 procedures set forth in paragraph (2), the coroner or medical
29 examiner or a designee intends to deny recovery of the
30 vascularized composite allograft, the coroner or medical
31 examiner or a designee must provide a written statement
32 explaining the reason for the denial. The coroner or medical
33 examiner or a designee shall ensure the written statement is
34 made part of the coroner's or medical examiner's file. The
35 written statement shall be exempt from the act of February
36 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

37 (c) Forms.--The coroner or medical examiner shall develop a
38 form for the purpose of stating that the coroner or medical
39 examiner has denied the recovery of the vascularized composite
40 allograft as set forth in subsection (b). The coroner or medical
41 examiner shall complete the form when denying recovery of the
42 vascularized composite allograft as set forth in subsection (b).
43 § 8658. Gifts of vascularized composite allografts.

44 (a) Gift.--The following apply to vascularized composite
45 allografts:

46 (1) If the individual whose death is imminent or has
47 died in the hospital has a document of gift which authorizes
48 a gift of a vascularized composite allograft, the organ
49 procurement organization representative or the designated
50 requestor shall attempt to notify a surrogate decision maker.

51 (2) If no document of gift is known to the organ

1 procurement organization representative or the designated
2 requestor, then the organ procurement organization
3 representative or the designated requestor may ask the
4 surrogate decision maker whether the individual had a validly
5 executed document of gift. If there is no evidence of gift of
6 a vascularized composite allograft by the individual, the
7 organ procurement organization representative or the
8 designated requestor shall notify the surrogate decision
9 maker of the option to donate a vascularized composite
10 allograft. The notification shall be performed in accordance
11 with section 8656 (relating to procedure for requesting
12 hands, facial tissue, limbs and other vascularized composite
13 allografts).

14 (3) The hospital administrator or the hospital
15 administrator's designated representative shall indicate in
16 the medical record of the individual the information under
17 this paragraph and paragraph (2). The information shall also
18 be communicated by the hospital administrator or the hospital
19 administrator's designee to the organ procurement
20 organization or designated requestor, as appropriate:

21 (i) whether or not a document of gift is known to
22 exist and whether a gift of a vascularized composite
23 allograft was made;

24 (ii) if a gift of a vascularized composite allograft
25 was made, the name of the person granting the gift and
26 that person's relationship to the individual; and

27 (iii) all of the following:

28 (A) Whether the individual executed an advance
29 health care directive, living will, power of
30 attorney, health care power of attorney, will or
31 other document, including a do-not-resuscitate order,
32 evidencing an intention to limit, withdraw or
33 withhold life-sustaining measures.

34 (B) Whether the individual indicated in an
35 advance health care directive, living will, power of
36 attorney, health care power of attorney, will or
37 other document an intention to limit the anatomical
38 gifts of the individual in any way, including the
39 intention to limit an anatomical gift to parts of the
40 body which do not require a ventilator or other life-
41 sustaining measures, or to deny making or refusing to
42 make a gift of a vascularized composite allograft.

43 (C) Whether the individual amended or revoked a
44 gift of a vascularized composite allograft, in any
45 document specified in this subparagraph or in any
46 other document or in accordance with section 8615
47 (relating to amendment or revocation of gift).

48 (b) Testing.--

49 (1) This subsection shall apply if:

50 (i) a hospital refers an individual whose death is
51 imminent or who has died in a hospital to an organ

1 procurement organization;

2 (ii) the organ procurement organization, in
3 consultation with the individual's attending physician,
4 determines, based upon a medical record review and other
5 information supplied by the individual's attending
6 physician, that the individual may be a prospective donor
7 of a vascularized composite allograft; and

8 (iii) the individual has not:

9 (A) indicated in an advance health care
10 directive, a living will, power of attorney, health
11 care power of attorney, will, do-not-resuscitate
12 order or other document an intention to either limit
13 the anatomical gifts of the individual to parts of
14 the body which do not require a ventilator or other
15 life-sustaining measures or indicated an intention to
16 deny making or refusing to make a gift of a
17 vascularized composite allograft; or

18 (B) amended or revoked a gift of a vascularized
19 composite allograft in any document specified in
20 subsection (a)(3) or in any other document or in
21 accordance with section 8615.

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

24 (i) Subject to the wishes expressed by the
25 individual under subsection (a)(3), the organ procurement
26 organization may conduct a blood or tissue test or
27 minimally invasive examination which is reasonably
28 necessary to evaluate the medical suitability of a
29 vascularized composite allograft that is or may be the
30 subject of a gift. Testing and examination under this
31 subparagraph shall comply with a denial or refusal to
32 make a gift of a vascularized composite allograft or any
33 limitation expressed by the individual with respect to
34 the vascularized composite allograft, or a limitation in
35 the provision of a ventilator or other life-sustaining
36 measures, as specified in subsection (a)(3) or a
37 revocation or amendment to a gift of a vascularized
38 composite allograft as specified in a document in
39 subsection (a)(3) or in any other document or in
40 accordance with section 8615. The results of tests and
41 examinations under this subparagraph shall be used or
42 disclosed only:

43 (A) to evaluate medical suitability for donation
44 of a vascularized composite allograft and to
45 facilitate the donation process; and

46 (B) as required or permitted by law.

47 (ii) Subject to the wishes expressed by the
48 individual under subsection (a)(3), the hospital may not
49 withdraw or withhold any measures which are necessary to
50 maintain the medical suitability of the vascularized
51 composite allograft until the organ procurement

1 organization or designated requestor, as appropriate, has
2 had the opportunity to advise the surrogate decision
3 maker of the option to make a gift of a vascularized
4 composite allograft and has received or been denied
5 authorization to proceed with recovery of the part.

6 (c) Testing after death.--Subject to the individual's wishes
7 under subsection (a)(3), after an individual's death, a person
8 to whom an anatomical gift may pass under section 8662 (relating
9 to donees and vascularized composite allografts) may conduct a
10 test or examination which is reasonably necessary to evaluate
11 the medical suitability of the body or part for its intended
12 purpose.

13 (d) Recipients.--Subject to the individual's wishes under
14 subsection (a)(3) and as set forth in this subchapter, a person
15 that accepts a gift of a vascularized composite allograft may
16 allow embalming, burial or cremation and the use of remains in a
17 funeral service. The person to whom the part passes under
18 section 8662, upon the death of the individual and before
19 embalming, burial or cremation, shall cause the vascularized
20 composite allograft to be removed without unnecessary
21 mutilation.

22 (e) Physicians.--Neither the physician who attends the
23 individual at death nor the physician who determines the time of
24 the individual's death may participate in the procedures for
25 removing or transplanting a vascularized composite allograft.

26 (f) Coordination of procurement and use.--The organ
27 procurement organization, hospital personnel and other
28 individuals involved in the process of recovering a vascularized
29 composite allograft shall limit the testing and examination of
30 the individual under this section so as to comply with the
31 wishes of the individual under subsection (a)(3).

32 § 8659. Rights and protections for certain individuals.

33 (a) General rule.--An individual who is in need of a
34 vascularized composite allograft shall not be deemed ineligible
35 to receive a vascularized composite allograft solely because of
36 the individual's physical or mental disability, except to the
37 extent that the physical or mental disability has been found by
38 a physician or surgeon following an individualized evaluation of
39 the individual to be medically significant to the provision of
40 the vascularized composite allograft. If an individual has the
41 necessary support system to assist the individual in complying
42 with posttransplant medical requirements, an individual's
43 inability to independently comply with those requirements shall
44 not be deemed to be medically significant.

45 (b) Definition.--As used in this section, the term
46 "disability" shall have the same meaning as in the Americans
47 with Disabilities Act of 1990 (Public Law 101-336, 104 Stat.
48 327).

49 § 8660. Law on autopsies applicable.

50 (a) General rule.--Subject to the provisions of section 8657
51 (relating to gift of vascularized composite allograft from

1 decedent whose death is under investigation), the provisions of
2 this subchapter are subject to the laws of this Commonwealth
3 prescribing powers and duties with respect to autopsies.

4 (b) Copies of autopsy reports.--Notwithstanding 18 Pa.C.S.
5 Ch. 91 (relating to criminal history record information), an
6 organ procurement organization is authorized to obtain a copy of
7 an autopsy report in a timely fashion upon request and payment
8 of reasonable fees.

9 § 8661. Vital records.

10 An organ procurement organization may, upon request and
11 payment of associated fees, obtain certified copies of death
12 records of a donor from the Division of Vital Records of the
13 Department of Health.

14 § 8662. Donees and vascularized composite allografts.

15 The following persons may become donees of gifts of
16 vascularized composite allografts for any of the purposes
17 stated:

18 (1) Any hospital, surgeon or physician for medical or
19 dental education, research, advancement of medical or dental
20 science, therapy or transplantation.

21 (2) Any accredited medical or dental school, college or
22 university for education, research, advancement of medical or
23 dental science or therapy.

24 (3) Any bank or storage facility for medical or dental
25 education, research, advancement of medical or dental
26 science, therapy or transplantation.

27 (4) Any specified individual for therapy or
28 transplantation needed by the individual.

29 (5) The board.

30 § 8663. Dissemination of information prohibited.

31 (a) General rule.--Except as provided in subsection (b), no
32 organ procurement organization, eye bank or tissue bank may
33 divulge any individually identifiable information acquired in
34 the course of performing the organization's or bank's
35 responsibilities under this chapter except for the purposes of
36 facilitating transplantation of vascularized composite
37 allografts.

38 (b) Donors and recipients.--An organ procurement
39 organization, eye bank or tissue bank may communicate
40 individually identifiable information of the donor and recipient
41 if expressly authorized by:

42 (1) the recipient; and

43 (2) if the donor is alive, the donor, or, if the donor
44 is deceased, the next of kin of the donor.

45 § 8664. Prohibited conduct.

46 (a) General rule.--An organ procurement organization, an eye
47 bank or a tissue bank shall not do any of the following with
48 respect to recovery and transplantation of vascularized
49 composite allografts:

50 (1) Disparage the services or business of another organ
51 procurement organization, eye bank or tissue bank by false or

1 misleading representations of fact.

2 (2) Engage in fraudulent conduct to influence the
3 selection by a hospital of an eye bank or tissue bank.

4 (3) Engage in unlawful competition or discrimination.

5 (b) Construction.--This subsection is not intended to
6 restrict or preclude an organ procurement organization from
7 marketing or promoting the organ procurement organization's
8 services regarding recovery of vascularized composite allografts
9 in the normal course of business.

10 § 8665. Funeral establishments.

11 (a) General rule.--Except as set forth in subsection (b), a
12 funeral director or a funeral establishment shall not:

13 (1) remove vascularized composite allografts from a
14 corpse;

15 (2) permit others to remove vascularized composite
16 allografts from a corpse; or

17 (3) use funeral establishment facilities to remove
18 vascularized composite allografts from a corpse.

19 (b) Exception.--Subsection (a) shall not apply and removal
20 is permissible if the removal is:

21 (1) necessary to perform embalming or other services in
22 preparation for burial or cremation; and

23 (2) authorized in writing by a family member or
24 guardian.

25 § 8666. Limitation on liability.

26 A person who acts in good faith in accordance with the
27 provisions of this subchapter shall not be subject to criminal
28 or civil liability arising from any action taken under this
29 subchapter. The civil immunity provided by this section shall
30 not extend to persons if damages result from the gross
31 negligence, recklessness or intentional misconduct of the
32 person. The criminal immunity provided by this section shall not
33 extend to intentional, knowing or reckless conduct.

34 Section 11. This act shall take effect as follows:

35 (1) The following provisions shall take effect
36 immediately:

37 (i) This section.

38 (ii) The addition of 20 Pa.C.S. § 8619(a.1).

39 (iii) The addition of 20 Pa.C.S. § 8621(c)(2).

40 (iv) The addition of 20 Pa.C.S. § 8626.

41 (v) The addition of 20 Pa.C.S. § 8628.

42 (vi) The addition of 20 Pa.C.S. § 8629.

43 (vii) The addition of 20 Pa.C.S. § 8631.

44 (viii) The addition of 20 Pa.C.S. Ch. 86 Subch. D.

45 (2) The amendment of 20 Pa.C.S. § 305(d)(2) shall take
46 effect in 60 days.

47 (3) The remainder of this act shall take effect upon
48 publication of the notice under 20 Pa.C.S. § 8629.