
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 180 Session of
2017

INTRODUCED BY GREENLEAF, ARGALL, YAW, BREWSTER, BOSCOLA,
YUDICHAK, COSTA, LAUGHLIN, BROWNE AND TARTAGLIONE,
JUNE 7, 2017

AMENDMENTS TO HOUSE AMENDMENTS, IN SENATE, OCTOBER 1, 2018

AN ACT

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

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. Sections 305(a), (a.1) and (d)(2) and 5471 of
4 Title 20 of the Pennsylvania Consolidated Statutes are amended
5 to read:

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

7 (a) General rule.--Except as specified in subsection (a.1),
8 the determination of the final disposition of a decedent's
9 remains shall be as set forth in this section unless otherwise
10 specifically provided by waiver and agreement of the person
11 entitled to make such determination under this section, subject
12 to the provisions of a valid will executed by the decedent and
13 [section] sections 8611(a) (relating to persons who may execute
14 anatomical gift) and 8654(1) (relating to requirement of
15 explicit, specific and separate authorization).

16 (a.1) Exception for members of the armed forces.--The
17 determination of the final disposition of a decedent's remains
18 shall be as set forth in this section unless otherwise
19 specifically provided by a DD Form 93 executed later in time
20 than a valid will executed by the decedent or a waiver and
21 agreement of the person entitled to make such determination
22 under this section, subject to the provisions of [section]
23 sections 8611(a) and 8654(1).

24 * * *

25 (d) Procedure.--Where a petition alleging enduring
26 estrangement, incompetence, contrary intent or waiver and
27 agreement is made within 48 hours of the death or discovery of
28 the body of the decedent, whichever is later, a court may order
29 that no final disposition of the decedent's remains take place
30 until a final determination is made on the petition. Notice to

1 each person with equal or higher precedence than the petitioner
2 to the right to dispose of the decedent's remains and to his
3 attorney if known and to the funeral home or other institution
4 where the body is being held must be provided concurrently with
5 the filing of the petition. A suitable bond may be required by
6 the court.

7 * * *

8 (2) If two [or more] persons with equal standing as next
9 of kin disagree on disposition of the decedent's remains, the
10 authority to dispose shall be determined by the court, with
11 preference given to the person who had the closest
12 relationship with the deceased. If more than two persons with
13 equal standing as next of kin disagree on disposition of the
14 decedent's remains, the authority to dispose shall be
15 determined by the majority. Where two or more persons with
16 equal standing cannot reach a majority decision, the court
17 shall make a final determination on disposition of the
18 decedent's remains.

19 * * *

20 § 5471. Example.

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

23 DURABLE HEALTH CARE POWER OF ATTORNEY
24 AND HEALTH CARE TREATMENT INSTRUCTIONS

25 (LIVING WILL)

26 PART I

27 INTRODUCTORY REMARKS ON

28 HEALTH CARE DECISION MAKING

29 You have the right to decide the type of health care you
30 want.

1 Should you become unable to understand, make or
2 communicate decisions about medical care, your wishes for
3 medical treatment are most likely to be followed if you
4 express those wishes in advance by:

5 (1) naming a health care agent to decide treatment
6 for you; and

7 (2) giving health care treatment instructions to
8 your health care agent or health care provider.

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

11 [It]

12 NOTICE ABOUT ANATOMICAL DONATION

13 This document may also contain directions regarding
14 whether you wish to donate an organ, tissue or eyes. Under
15 Pennsylvania law, donating a part of the body for
16 transplantation or research is a voluntary act. You do not
17 have to donate an organ, tissue, eye or other part of the
18 body. However, it is important that you make your wishes
19 about anatomical donation known, just as it is important to
20 make your choices about end-of-life care known.

21 Surgeons have made great strides in the field of organ
22 donation and can now transplant hands, facial tissue and
23 limbs. A hand, facial tissue and a limb are examples of what
24 is known as a vascularized composite allograft. Under
25 Pennsylvania law, explicit and specific consent to donate
26 hands, facial tissue, limbs or other vascularized composite
27 allografts must be given. You may use this document to make
28 clear your wish to donate or not to donate hands, facial
29 tissue or limbs.

30 Under Pennsylvania law, the organ donor designation on

1 the driver's license authorizes the individual to donate what
2 we traditionally think of as organs (heart, lung, liver,
3 kidney) and tissue and does not authorize the individual to
4 donate hands, facial tissue, limbs or other vascularized
5 composite allografts.

6 Detailed information about anatomical donation, including
7 the procedure used to recover organs, tissues and eyes, can
8 be found on the Department of Transportation's Internet
9 website. Information about the donation of hands, facial
10 tissue and limbs can also be found on the Department of
11 Transportation's Internet website.

12 You may wish to consult with your physician or your
13 attorney to determine whether the procedure for making an
14 anatomical donation is compatible with fulfilling your
15 specific choices for end-of-life care. In addition, you may
16 want to consult with clergy regarding whether you want to
17 donate an organ, a hand, facial tissue or limb or other part
18 of the body. It is important to understand that donating a
19 hand, limb or facial tissue may have an impact on funeral
20 arrangements and that an open casket may not be possible.

21 An advance health care directive may contain a health
22 care power of attorney, where you name a person called a
23 "health care agent" to decide treatment for you, and a living
24 will, where you tell your health care agent and health care
25 providers your choices regarding the initiation,
26 continuation, withholding or withdrawal of life-sustaining
27 treatment and other specific directions regarding end-of-life
28 care and your views regarding organ and tissue donation.

29 You may limit your health care agent's involvement in
30 deciding your medical treatment so that your health care

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

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

18 A health care provider who refuses to honor your wishes
19 about health care must tell you of its refusal and help to
20 transfer you to a health care provider who will honor your
21 wishes.

22 You should give a copy of your advance health care
23 directive (a living will, health care power of attorney or a
24 document containing both) to your health care agent, your
25 physicians, family members and others whom you expect would
26 likely attend to your needs if you become unable to
27 understand, make or communicate decisions about medical care.
28 If your health care wishes change, tell your physician and
29 write a new advance health care directive to replace your old
30 one. If your wishes about donating an organ, tissue or eyes

1 change, tell your physician and write a new advance health
2 care directive to replace your old one. If you do not wish to
3 donate a hand, facial tissue or limb, it is important to make
4 that clear in your advance health care directive or health
5 care power of attorney, or both. It is important in selecting
6 a health care agent that you choose a person you trust who is
7 likely to be available in a medical situation where you
8 cannot make decisions for yourself. You should inform that
9 person that you have appointed him or her as your health care
10 agent and discuss your beliefs and values with him or her so
11 that your health care agent will understand your health care
12 objectives[.], including whether you want to limit or
13 withhold life-sustaining measures in the event that you
14 become permanently unconscious or have an end-stage medical
15 condition. You should also tell your health care agent
16 whether you want to donate organs, tissue, eyes or other
17 parts of the body and whether you want to make a donation of
18 your hands, facial tissue or limbs. It is important to
19 understand that if you decide to donate a hand, limb or
20 facial tissue it may impact funeral arrangements and that an
21 open casket may not be possible.

22 You may wish to consult with knowledgeable, trusted
23 individuals such as family members, your physician or clergy
24 when considering an expression of your values and health care
25 wishes. You are free to create your own advance health care
26 directive to convey your wishes regarding medical treatment.
27 The following form is an example of an advance health care
28 directive that combines a health care power of attorney with
29 a living will.

30 NOTES ABOUT THE USE OF THIS FORM

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

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

7 You may add comments to this form or use your own form to
8 help your physician or health care agent decide your medical
9 care.

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

1 limbs.

2 This form allows you to tell your health care agent your
3 goals if you have an end-stage medical condition or other
4 extreme and irreversible medical condition, such as advanced
5 Alzheimer's disease. Do you want medical care applied
6 aggressively in these situations or would you consider such
7 aggressive medical care burdensome and undesirable?

8 You may choose whether you want your health care agent to
9 be bound by your instructions or whether you want your health
10 care agent to be able to decide at the time what course of
11 treatment the health care agent thinks most fully reflects
12 your wishes and values.

13 If you are a woman and diagnosed as being pregnant at the
14 time a health care decision would otherwise be made pursuant
15 to this form, the laws of this Commonwealth prohibit
16 implementation of that decision if it directs that life-
17 sustaining treatment, including nutrition and hydration, be
18 withheld or withdrawn from you, unless your attending
19 physician and an obstetrician who have examined you certify
20 in your medical record that the life-sustaining treatment:

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

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

24 (3) will cause pain to you that cannot be alleviated by
25 medication.

26 A physician is not required to perform a pregnancy test on
27 you unless the physician has reason to believe that you may
28 be pregnant.

29 Pennsylvania law protects your health care agent and
30 health care providers from any legal liability for following

1 in good faith your wishes as expressed in the form or by your
2 health care agent's direction. It does not otherwise change
3 professional standards or excuse negligence in the way your
4 wishes are carried out. If you have any questions about the
5 law, consult an attorney for guidance.

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

9 PART II

10 DURABLE HEALTH CARE POWER OF ATTORNEY

11 I,, of.....
12 County, Pennsylvania, appoint the person named below to be my
13 health care agent to make health and personal care decisions
14 for me.

15 Effective immediately and continuously until my death or
16 revocation by a writing signed by me or someone authorized to
17 make health care treatment decisions for me, I authorize all
18 health care providers or other covered entities to disclose
19 to my health care agent, upon my agent's request, any
20 information, oral or written, regarding my physical or mental
21 health, including, but not limited to, medical and hospital
22 records and what is otherwise private, privileged, protected
23 or personal health information, such as health information as
24 defined and described in the Health Insurance Portability and
25 Accountability Act of 1996 (Public Law 104-191, 110 Stat.
26 1936), the regulations promulgated thereunder and any other
27 State or local laws and rules. Information disclosed by a
28 health care provider or other covered entity may be
29 redisclosed and may no longer be subject to the privacy rules
30 provided by 45 C.F.R. Pt. 164.

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

6 MY HEALTH CARE AGENT HAS ALL OF THE FOLLOWING POWERS
7 SUBJECT TO THE HEALTH CARE TREATMENT INSTRUCTIONS THAT FOLLOW
8 IN PART III (CROSS OUT ANY POWERS YOU DO NOT WANT TO GIVE
9 YOUR HEALTH CARE AGENT):

10 1. To authorize, withhold or withdraw medical care and
11 surgical procedures.

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

15 3. To authorize my admission to or discharge from a
16 medical, nursing, residential or similar facility and to make
17 agreements for my care and health insurance for my care,
18 including hospice and/or palliative care.

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

21 5. To take any legal action necessary to do what I have
22 directed.

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

27 7. To authorize or refuse to authorize donation of what
28 we traditionally think of as organs (for example, heart,
29 lung, liver, kidney), tissue, eyes or other parts of the
30 body.

1 (Name and relationship)

2 Address:.....

3

4 Telephone Number: Home..... Work.....

5 E-mail:.....

6 GUIDANCE FOR HEALTH CARE AGENT (OPTIONAL) GOALS

7 If I have an end-stage medical condition or other extreme

8 irreversible medical condition, my goals in making medical

9 decisions are as follows (insert your personal priorities

10 such as comfort, care, preservation of mental function,

11 etc.):.....

12

13

14

15 SEVERE BRAIN DAMAGE OR BRAIN DISEASE

16 If I should suffer from severe and irreversible brain

17 damage or brain disease with no realistic hope of significant

18 recovery, I would consider such a condition intolerable and

19 the application of aggressive medical care to be burdensome.

20 I therefore request that my health care agent respond to any

21 intervening (other and separate) life-threatening conditions

22 in the same manner as directed for an end-stage medical

23 condition or state of permanent unconsciousness as I have

24 indicated below.

25 Initials.....I agree

26 Initials.....I disagree

27 PART III

28 HEALTH CARE TREATMENT INSTRUCTIONS IN THE EVENT

29 OF END-STAGE MEDICAL CONDITION

30 OR PERMANENT UNCONSCIOUSNESS

1 (LIVING WILL)

2 The following health care treatment instructions exercise
3 my right to make my own health care decisions. These
4 instructions are intended to provide clear and convincing
5 evidence of my wishes to be followed when I lack the capacity
6 to understand, make or communicate my treatment decisions:

7 IF I HAVE AN END-STAGE MEDICAL CONDITION (WHICH WILL
8 RESULT IN MY DEATH, DESPITE THE INTRODUCTION OR CONTINUATION
9 OF MEDICAL TREATMENT) OR AM PERMANENTLY UNCONSCIOUS SUCH AS
10 AN IRREVERSIBLE COMA OR AN IRREVERSIBLE VEGETATIVE STATE AND
11 THERE IS NO REALISTIC HOPE OF SIGNIFICANT RECOVERY, ALL OF
12 THE FOLLOWING APPLY (CROSS OUT ANY TREATMENT INSTRUCTIONS
13 WITH WHICH YOU DO NOT AGREE):

14 1. I direct that I be given health care treatment to
15 relieve pain or provide comfort even if such treatment might
16 shorten my life, suppress my appetite or my breathing, or be
17 habit forming.

18 2. I direct that all life prolonging procedures be
19 withheld or withdrawn. You may want to consult with your
20 physician and attorney in order to determine whether your
21 designated choices regarding end-of-life care are compatible
22 with anatomical donation. In order to donate an organ your
23 body may need to be maintained on artificial support after
24 you have been declared dead to facilitate anatomical
25 donation. Detailed information about the procedure for being
26 declared brain dead or dead by lack of cardiac function and
27 information about organ donation can be found on the
28 Department of Transportation's publicly accessible Internet
29 website.

30 3. I specifically do not want any of the following as

1 life prolonging procedures: (If you wish to receive any of
2 these treatments, write "I do want" after the treatment)
3 heart-lung resuscitation (CPR).....
4 mechanical ventilator (breathing machine).....
5 dialysis (kidney machine).....
6 surgery.....
7 chemotherapy.....
8 radiation treatment.....
9 antibiotics.....

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

16 TUBE FEEDINGS

17I want tube feedings to be given

18 OR

19 NO TUBE FEEDINGS

20I do not want tube feedings to be given.

21 4. IF I HAVE AUTHORIZED DONATION OF AN ORGAN (SUCH AS A <--
22 HEART, LIVER OR LUNG) OR A VASCULARIZED COMPOSITE ALLOGRAFT
23 IN THE NEXT SECTION OF THIS DOCUMENT, I AUTHORIZE THE USE OF
24 ARTIFICIAL SUPPORT, INCLUDING A VENTILATOR, FOR A LIMITED
25 PERIOD OF TIME AFTER I AM DECLARED DEAD TO FACILITATE THE
26 DONATION.

27 ~~4.~~ 5. I specifically do not want to be on artificial <--
28 support after I am declared dead.....

29 HEALTH CARE AGENT'S USE OF INSTRUCTIONS

30 (INITIAL ONE OPTION ONLY).

1 My health care agent must follow these
2 instructions.

3 OR

4 These instructions are only guidance.

5 My health care agent shall have final say and may
6 override any of my instructions. (Indicate any
7 exceptions).....
8

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

11 LEGAL PROTECTION

12 Pennsylvania law protects my health care agent and health
13 care providers from any legal liability for their good faith
14 actions in following my wishes as expressed in this form or
15 in complying with my health care agent's direction. On behalf
16 of myself, my executors and heirs, I further hold my health
17 care agent and my health care providers harmless and
18 indemnify them against any claim for their good faith actions
19 in recognizing my health care agent's authority or in
20 following my treatment instructions.

21 [ORGAN DONATION (INITIAL ONE OPTION ONLY.)

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

28 OR

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

1 SIGNATURE.....

2 INFORMATION ABOUT ANATOMICAL DONATION

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

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

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

1 ORGAN DONATION

2I consent to making an anatomical gift. This gift
3 does not include hands, facial tissue, limbs or other
4 vascularized composite allografts. I understand that if I
5 want to donate a hand, facial tissue, limb or other
6 vascularized composite allograft, there is another place in
7 this document for me to do so. I also understand the hospital
8 may provide artificial support, which may include a
9 ventilator, after I am declared dead in order to facilitate
10 donation. I consent to making a gift of the following parts
11 of my body for transplantation or research (please insert any
12 limitations you desire on donation of specific organs or
13 tissues or eyes or any limitation on the use of a donated
14 part of the body):

15
16
17

18 SIGNATURE.....DATE.....

19 GIFT OF HANDS, FACIAL TISSUE, LIMBS AND OTHER VASCULARIZED
20 COMPOSITE ALLOGRAFTS

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

1 facilitate donation.

2 Please insert any limitations you desire on donation of
3 hands, facial tissue, limbs or other vascularized composite
4 allografts and whether you request reconstructive surgery
5 before burial:

6

7

8

9 SIGNATURE.....DATE.....

10If I have consented to making a gift of an organ, <--
11 hand, facial tissue, limb or other part of my body which
12 requires the provision of artificial support by the hospital
13 in order to facilitate donation, I request that medicine be
14 provided so I do not feel pain during the testing or recovery
15 process.

16 SIGNATURE.....DATE.....

17I do not consent to donating my organs, tissues
18 or any other part of my body, including hands, facial tissue,
19 limbs or other vascularized composite allografts. This
20 provision serves as a refusal to donate any part of my body.
21 This provision also serves as a revocation of any prior
22 decision I have made to donate organs, tissues or other parts
23 of my body, including hands, facial tissue, limbs or other
24 vascularized composite allograft made in a prior document,
25 including a driver's license, will, power of attorney, health
26 care power of attorney or other document.

27 SIGNATURE.....DATE.....

28 Having carefully read this document, I have signed it
29 this.....day of....., 20..., revoking all previous
30 health care powers of attorney and health care treatment

1 instructions.

2

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

5 WITNESS:.....

6 WITNESS:.....

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

14 NOTARIZATION (OPTIONAL)

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

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

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

27

28 Notary Public My commission expires

29 Section 2. The definitions of "advisory committee," "bank or
30 storage facility," "decedent," "organ procurement organization"

1 and "part" in section 8601 of Title 20 are amended and the
2 section is amended by adding definitions to read:

3 § 8601. Definitions.

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

7 * * *

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

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

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

15 "Agent." Any of the following:

16 (1) A health care agent authorized to make health care
17 decisions on a principal's behalf under Subchapter C of
18 Chapter 54 (relating to health care agents and
19 representatives).

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

23 "Anatomical donation." An anatomical gift.

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

29 ["Bank or storage facility." A facility licensed, accredited
30 or approved under the laws of any state for storage of human

1 bodies or parts thereof.]

2 * * *

3 "Decedent." [A deceased individual, including a stillborn
4 infant or fetus.] A deceased individual whose body or part is or
5 may be the source of an anatomical gift. The term includes a
6 stillborn infant and, subject to restrictions imposed by other
7 laws, a fetus. The term does not include a blastocyst, embryo or
8 fetus that is the subject of an induced abortion.

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

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

18 * * *

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

21 "Eye bank." A person that is licensed, accredited or
22 regulated under Federal or State law to engage in the recovery,
23 screening, testing, processing, storage or distribution of human
24 eyes or portions of human eyes.

25 * * *

26 "Hospital administrator." Any individual appointed by a
27 hospital's governing body to act on behalf of the hospital's
28 governing body in the overall management of the hospital. The
29 term includes a designee of the individual who is authorized by
30 the hospital to exercise supervisory authority.

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

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

5 "Organ." A human kidney, liver, heart, lung, pancreas,
6 esophagus, stomach, small or large intestine, or any portion of
7 the gastrointestinal tract. The term also includes blood vessels
8 recovered during the recovery of such organs if the vessels are
9 intended for use in organ transplantation and labeled, "for use
10 in organ transplant only." The term does not include a human
11 hand, facial tissue, limb or other vascularized composite
12 allograft.

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

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

22 * * *

23 "Person authorized or obligated to dispose of a decedent's
24 body." Any of the following, without regard to order of
25 priority:

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

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

30 (3) A hospital administrator of the hospital where the

1 decedent's death was pronounced.

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

4 * * *

5 "Reasonably available." Able to be contacted by an organ
6 procurement organization with reasonable effort and willing and
7 able to exercise the decision to refuse or to authorize
8 anatomical donation in a timely manner consistent with existing
9 medical criteria necessary to make an anatomical gift.

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

12 "Record." Information that is inscribed on a tangible medium
13 or that is stored in an electronic or other medium and is
14 retrievable in perceivable form.

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

19 * * *

20 "Tissue." A portion of the human body other than an organ or
21 an eye. The term does not include blood, unless the blood is
22 donated for the purpose of research or education. The term also
23 does not include vascularized composite allografts, including a
24 human hand, facial tissue or limb.

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

29 * * *

30 "Vascularized composite allograft." A human hand, facial

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

13 Section 3. Title 20 is amended by adding a section to read:
14 § 8610. Scope.

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

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

27 § 8611. Persons who may execute anatomical gift.

28 (a) General rule.--Any individual of sound mind and 18 years
29 of age or more may give all or any part of his body for any
30 purpose specified in section 8612 (relating to persons who may

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

17 (b) [Others entitled] Entitled to donate anatomy of
18 decedent.--[Any] Subject to subsection (b.1), any of the
19 following persons who are reasonably available, in order of
20 priority stated, when persons in prior classes are not
21 reasonably available at the time of death, and in the absence of
22 [actual notice of contrary indications] known objections by the
23 decedent or [actual notice of opposition] by a member of [the
24 same or] a prior class, may give all or any part of the
25 decedent's body, with the exception of a vascularized composite
26 allograft, for any purpose specified in section 8612:

27 [(1) The spouse.]

28 [(2) An adult son or daughter.]

29 [(3) Either parent.]

30 [(4) An adult brother or sister.]

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

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

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

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

9 (3) An adult child of the decedent.

10 (4) A parent of the decedent.

11 (5) An adult sibling of the decedent.

12 (6) An adult grandchild of the decedent.

13 (7) A grandparent of the decedent.

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

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

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

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

25 (1) The district attorney or a law enforcement officer
26 notifies the organ procurement organization that the person
27 is a suspect or a person of interest in causing the disease,
28 illness, injury or condition of the decedent.

29 (2) The person is the subject of a protection from abuse
30 order, an order issued under 42 Pa.C.S. Ch. 62A (relating to

1 protection of victims of sexual violence or intimidation), or
2 similar order from a court that was issued to the decedent.

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

7 (b.2) Documentation required.--The organ procurement
8 organization shall document the procedure taken to contact any
9 of the persons in subsection (b). Such documentation shall be
10 maintained by the organ procurement organization for a minimum
11 of six years.

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

13 (1) A person described in subsection (b) (2), (3), (4),
14 (5), (6), (7), (8), (9) or (10) does not have a legal
15 obligation to consent to making a gift of the decedent's body
16 or part of the body.

17 (2) Before making a gift of the decedent's body or part
18 of the body, a person described in subsection (b) (2), (3),
19 (4), (5), (6), (7), (8), (9) or (10) is encouraged to
20 consider the decedent's moral and religious beliefs regarding
21 anatomical donation, if those beliefs are known to the
22 person.

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

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

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

28 (ii) The donee knows that a gift by a member of a
29 class is opposed by a reasonably available member of [the
30 same or] a prior class[, the donee shall not accept the

1 gift].

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

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

7 * * *

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

9 § 8612. Persons who may become donees; purposes for which
10 anatomical gifts may be made.

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

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

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

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

22 (4) Any specified individual for therapy or
23 transplantation needed by him.

24 (5) The board.]

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

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

28 (i) A hospital.

29 (ii) An accredited medical school, dental school,
30 college or university.

1 (iii) The board.

2 (iv) An organ procurement organization.

3 (v) Any other appropriate person as permitted by
4 law.

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

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

9 (4) An organ procurement organization.

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

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

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

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

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

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

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

29 (e) Multiple purposes.--If there is more than one purpose of
30 an anatomical gift set forth in the document of gift but the

1 purposes are not set forth in any priority, the gift shall be
2 used for transplantation or therapy, if suitable and enumerated
3 in the document of gift, and shall pass to the appropriate organ
4 procurement organization. If the gift cannot be used for
5 transplantation or therapy, the gift may be used for other
6 lawful purposes enumerated in the document of gift.

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

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

14 § 8613. Manner of executing anatomical gifts.

15 * * *

16 (b.1) Other means.--An anatomical gift may be made by a
17 statement or symbol indicating that the donor has made an
18 anatomical gift, which shall be recorded in a donor registry or
19 on the donor's driver's license or identification card. If an
20 anatomical gift is indicated on a driver's license or an
21 identification card, the anatomical gift is not invalidated by
22 revocation, suspension, expiration or cancellation of:

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

25 (2) the identification card by the Department of
26 Transportation.

27 * * *

28 [(d) Designation of person to carry out procedures.--
29 Notwithstanding section 8616(b) (relating to rights and duties
30 at death), the donor may designate in his will, card or other

1 document of gift the surgeon or physician to carry out the
2 appropriate procedures. In the absence of a designation or if
3 the designee is not available, the donee or other person
4 authorized to accept the gift may employ or authorize any
5 surgeon or physician for the purpose, or, in the case of a gift
6 of eyes, he may employ or authorize a person who is a funeral
7 director licensed by the State Board of Funeral Directors, an
8 eye bank technician or medical student, if the person has
9 successfully completed a course in eye enucleation approved by
10 the State Board of Medical Education and Licensure, or an eye
11 bank technician or medical student trained under a program in
12 the sterile technique for eye enucleation approved by the State
13 Board of Medical Education and Licensure to enucleate eyes for
14 an eye bank for the gift after certification of death by a
15 physician. A qualified funeral director, eye bank technician or
16 medical student acting in accordance with the terms of this
17 subsection shall not have any liability, civil or criminal, for
18 the eye enucleation.]

19 (d.1) Reliance.--Subject to the provisions of section
20 8616(c) (relating to rights and duties at death), a person may
21 rely on a document of gift or amendment to a document of gift as
22 being valid unless that person knows that the document of gift
23 was not validly executed or was revoked.

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

28 (1) Subject to paragraph (2), a donor's gift of all or
29 any part of the donor's body, including a designation in a
30 registry on a driver's license or identification card, donor

1 card, advance health care directive, will or other document
2 of gift, may not be revoked by the next of kin or other
3 persons identified in section 8611(b). The consent of any
4 person [designated in section 8611(b)] at the time of the
5 donor's death or immediately thereafter is not necessary to
6 render the gift valid and effective. This paragraph shall not
7 be construed to permit the donation of a vascularized
8 composite allograft.

9 (2) An agent, only if expressly authorized in writing in
10 a power of attorney, advance health care directive, health
11 care power of attorney or other document to override the
12 decedent's instructions on the making of an anatomical gift,
13 may revoke the decedent's gift. This paragraph shall not be
14 construed to permit the donation of a vascularized composite
15 allograft.

16 * * *

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

19 (1) this subchapter;

20 (2) the law of the state or country where it was
21 executed; or

22 (3) the law of the state or country where, at the time
23 of execution of the document of gift, the person making the
24 anatomical gift:

25 (i) is domiciled;

26 (ii) has a place of residence; or

27 (iii) is a citizen.

28 (h) Choice of law.--If a document of gift is valid under
29 this section, the law of this Commonwealth governs
30 interpretation of the document.

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

2 (1) An individual who is in need of an anatomical gift
3 shall not be deemed ineligible to receive an anatomical gift
4 solely because of the individual's physical or mental
5 disability, except to the extent that the physical or mental
6 disability has been found by a physician or surgeon following
7 an individualized evaluation of the individual to be
8 medically significant to the provision of the anatomical
9 gift. If an individual has the necessary support system to
10 assist the individual in complying with posttransplant
11 medical requirements, an individual's inability to
12 independently comply with those requirements shall not be
13 deemed to be medically significant.

14 (2) As used in this subsection, "disability" shall have
15 the same meaning as in the Americans with Disabilities Act of
16 1990 (Public Law 101-336, 104 Stat. 327).

17 Section 7. Sections 8616(b), (c) and (d), 8617, 8619, 8621,
18 8622, 8623 and 8624 of Title 20 are amended to read:

19 § 8616. Rights and duties at death.

20 * * *

21 (b) Physicians.--The time of death shall be determined by a
22 physician who tends the donor at his death or, if none, the
23 physician who certifies the death. [The physician or person who
24 certifies death or any of his professional partners or
25 associates shall not participate in the procedures for removing
26 or transplanting a part.]

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

29 (1) Subject to paragraph (2), a person who acts in good
30 faith in accordance with the terms of this subchapter or with

1 the anatomical gift laws of another state or a foreign
2 country [is not] shall not be liable for damages in any civil
3 action or subject to prosecution in any criminal proceeding
4 for [his] the person's act.

5 (2) The immunity from civil liability provided under
6 paragraph (1) shall not extend to acts or omissions resulting
7 from gross negligence, recklessness or intentional misconduct
8 of the person.

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

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

28 § 8617. Requests for anatomical gifts.

29 [(a) Procedure.--On or before the occurrence of each death
30 in an acute care general hospital, the hospital shall make

1 contact with the regional organ procurement organization in
2 order to determine the suitability for organ, tissue and eye
3 donation for any purpose specified under this subchapter. This
4 contact and the disposition shall be noted on the patient's
5 medical record.

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

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

19 (d) Identification of potential donors.--Each acute care
20 general hospital shall develop within one year of the date of
21 final enactment of this section, with the concurrence of the
22 hospital medical staff, a protocol for identifying potential
23 organ and tissue donors. It shall require that, at or near the
24 time of every individual death, all acute care general hospitals
25 contact by telephone their regional organ procurement
26 organization to determine suitability for organ, tissue and eye
27 donation of the individual in question. The person designated by
28 the acute care general hospital to contact the organ procurement
29 organization shall have the following information available
30 prior to making the contact:

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

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

1 (e) Tissue procurement.--

2 (1) The first priority use for all tissue shall be
3 transplantation.

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

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

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

22 (i) The number of tissue donors.

23 (ii) The number of tissue procurements for
24 transplantation.

25 (iii) The number of tissue procurements recovered
26 for research by each tissue procurement provider
27 operating in this Commonwealth.]

28 (a) Procedure.--A hospital located in this Commonwealth
29 shall notify the applicable designated organ procurement
30 organization or a third party designated by the organ

1 procurement organization of an individual whose death is
2 imminent or who has died in the hospital. Notification shall be
3 made in a timely manner to ensure that examination, evaluation
4 and ascertainment of donor status as specified in subsection (d)
5 may be completed within a time frame compatible with the
6 donation of organs and tissues for transplant. The notification
7 shall be made without regard to whether the person has executed
8 an advance health care directive.

9 (b) Referrals.--If an organ procurement organization
10 receives a referral of an individual whose death is imminent or
11 who has died in a hospital, the organ procurement organization
12 shall make a reasonable search of the records of the Donate Life
13 PA Registry or the applicable State donor registry that the
14 organ procurement organization knows exists for the geographic
15 area in which the individual resided or resides in order to
16 ascertain whether the individual has made an anatomical gift.

17 (c) Document of gift.--

18 (1) If the individual whose death is imminent or has
19 died in the hospital has a document of gift which authorizes
20 an anatomical donation, including registration with the
21 Donate Life PA Registry, the organ procurement organization
22 representative or the designated requestor shall attempt to
23 notify a person listed in section 8611(b) (relating to
24 persons who may execute anatomical gift) of the gift.

25 (2) If no document of gift is known to the organ
26 procurement organization representative or the designated
27 requestor, then the organ procurement organization
28 representative or the designated requestor shall ask the
29 persons listed in section 8611(b) whether the individual had
30 a validly executed document of gift. If there is no evidence

1 of an anatomical gift by the individual, the organ
2 procurement organization representative or the designated
3 requestor shall notify a person listed in section 8611(b) of
4 the option to donate organs and tissues. The notification
5 shall be performed in accordance with a protocol that
6 encourages discretion and sensitivity to family circumstances
7 in all discussions regarding donations of organs and tissues.
8 The protocol shall take into account the individual's
9 religious beliefs or nonsuitability for organ and tissue
10 donation.

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

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

20 (ii) if a gift was made, the name of the person
21 granting the gift and that person's relationship to the
22 individual; and

23 (iii) all of the following:

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

30 (B) Whether the individual indicated in an

1 advance health care directive, living will, power of
2 attorney, health care power of attorney, will or
3 other document an intention to limit the anatomical
4 gifts of the individual in any way, including the
5 intention to limit an anatomical gift to parts of the
6 body which do not require a ventilator or other life-
7 sustaining measures, or to deny making or refusing to
8 make an anatomical gift.

9 (C) Whether the individual amended or revoked an
10 anatomical gift in any document specified in this
11 subparagraph or in any other document or in
12 accordance with section 8615 (relating to amendment
13 or revocation of gift).

14 (d) Testing.--

15 (1) This subsection shall apply if:

16 (i) a hospital refers an individual whose death is
17 imminent or who has died in a hospital to an organ
18 procurement organization;

19 (ii) the organ procurement organization, in
20 consultation with the individual's attending physician or
21 a designee, determines based upon a medical record review
22 and other information supplied by the individual's
23 attending physician or a designee, that the individual
24 may be a prospective donor; and

25 (iii) the individual has not:

26 (A) indicated in an advance health care
27 directive, a living will, power of attorney, health
28 care power of attorney, will, DNR order or other
29 document an intention to either limit the anatomical
30 gifts of the individual to parts of the body which do

1 not require a ventilator or other life-sustaining
2 measures or indicated an intention to deny making or
3 refusing to make an anatomical gift; or

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

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

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

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

28 (B) as required or permitted by law.

29 (ii) Subject to the wishes expressed by the
30 individual under subsection (c)(3), the hospital may not

1 withdraw or withhold any measures which are necessary to <--
2 maintain the medical suitability of the part until the
3 organ procurement organization or designated requestor,
4 as appropriate, has had the opportunity to advise the
5 applicable persons as set forth in section 8611(b) of the
6 option to make an anatomical gift and has received or
7 been denied authorization to proceed with recovery of the
8 part.

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

16 (f) Guidelines.--

17 (1) The Department of Health, in consultation with organ
18 procurement organizations, tissue procurement providers and
19 the Hospital Association of Pennsylvania, donor recipients
20 and family appointed pursuant to section 8622(c) (3) (relating
21 to The Governor Robert P. Casey Memorial Organ and Tissue
22 Donation Awareness Trust Fund) shall, within six months of
23 the effective date of this [chapter] subchapter, do all of
24 the following:

25 (i) Establish guidelines regarding efficient
26 procedures facilitating the delivery of anatomical gift
27 donations from receiving hospitals to organ procurement
28 organizations and tissue providers.

29 (ii) Develop guidelines to assist hospitals in the
30 selection and designation of tissue procurement

1 providers.

2 (2) Each organ procurement organization and each tissue
3 procurement provider operating within this Commonwealth
4 shall, within six months of the effective date of this
5 chapter, file with the Department of Health, for public
6 review, its operating protocols.

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

11 (f.2) Recipients.--

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

17 (2) Subject to the wishes of the individual under
18 subsection (c)(3) and this subchapter, a person that accepts
19 an anatomical gift of an entire body may allow embalming,
20 burial or cremation and the use of remains in a funeral
21 service. If the gift is of a part, the person to whom the
22 part passes under section 8612, upon the death of the
23 individual and before embalming, burial or cremation, shall
24 cause the part to be removed without unnecessary mutilation.

25 (f.3) Physicians.--

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

30 (2) Subject to the individual's wishes under subsection

1 (c) (3), and subject to paragraph (1), a physician or
2 technician may remove a donated part from the body of an
3 individual that the physician or technician is qualified to
4 remove.

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

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

9 (2) The organ procurement organization, hospital
10 personnel and other individuals involved in the anatomical
11 donation process shall limit the testing and examination of
12 the individual under this section so as to comply with the
13 wishes of the individual under subsection (c) (3).

14 (g) Death record review.--

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

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

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

30 (ii) If there is no valid selection under

1 subparagraph (i) or if the organization selected under
2 subparagraph (i) is unwilling to carry out the review,
3 the department shall select to carry out the review any
4 other Commonwealth-licensed organ procurement
5 organization. For an organ procurement organization to be
6 selected under this subparagraph, the organization must
7 not operate nor have an ownership interest in an entity
8 which provides all of the functions of a tissue
9 procurement provider.

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

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

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

27 (5) An organ procurement organization may, upon request
28 and payment of associated fees, obtain certified copies of
29 death records of a donor from the Division of Vital Records
30 of the department.

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

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

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

11 § 8619. Use of driver's license or identification card to
12 indicate organ or tissue donation.

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

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

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

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

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

15 (a.1) Informational insert.--The following apply:

16 (1) Within 180 days of the effective date of this
17 subsection, the Department of Transportation shall furnish an
18 informational insert about organ donation, tissue donation
19 and donation of vascularized composite allografts to each
20 applicant for a renewal driver's license or identification <--
21 card HOLDER OF A DRIVER'S LICENSE OR IDENTIFICATION CARD WHEN <--
22 THE DEPARTMENT MAILS A CAMERA CARD TO THE HOLDER at the time
23 of renewal.

24 (2) The informational insert shall explain:

25 (i) that under Pennsylvania law, donation of organs,
26 tissues and vascularized composite allografts is a
27 voluntary act;

28 (ii) the difference between organs, tissues and
29 vascularized composite allografts;

30 (iii) that under Pennsylvania law, explicit and

1 specific consent is needed to donate a vascularized
2 composite allograft;

3 (iv) that under Pennsylvania law, the request for a
4 vascularized composite allograft must be made separately
5 from a request for organs and tissues;

6 (v) that the organ donor designation on the driver's
7 license authorizes the individual to donate organs and
8 tissue and does not authorize the individual to donate a
9 vascularized composite allograft;

10 (vi) that more information about organ donation,
11 tissue donation and donation of vascularized composite
12 allografts, including information about the procedure for
13 recovering organs and other parts of the body and
14 information about being declared dead through brain death
15 and dead by lack of cardiac function, can be found on the
16 Department of Transportation's publicly accessible
17 Internet website; and

18 (vii) that, before deciding whether to have an organ
19 donor designation placed on the driver's license, the
20 individual may consult with the individual's physician,
21 attorney or clergy.

22 (3) The Governor Robert P. Casey Memorial Organ and
23 Tissue Donation Awareness Trust Fund shall reimburse the
24 Department of Transportation for the costs incurred in the
25 development and implementation of the informational insert
26 program.

27 (b) Electronic access.--The organ procurement organizations
28 designated by the Federal Government in the Commonwealth of
29 Pennsylvania as part of the nationwide organ procurement network
30 [may] shall be given 24-hour-a-day electronic access to

1 information necessary to confirm an individual's organ donor
2 status through the Department of Transportation's driver
3 licensing database. Necessary information shall include the
4 individual's name, address, date of birth, driver's license
5 number and organ donor status. Notwithstanding 75 Pa.C.S. § 6114
6 (relating to limitation on sale, publication and disclosure of
7 records), the Department of Transportation is authorized to
8 provide the organ procurement organizations, after a written
9 agreement between the Department of Transportation and the organ
10 procurement organizations is first obtained, with the foregoing
11 information. The organ procurement organization shall not use
12 such information for any purpose other than to confirm an
13 individual's organ donor status at or near or after an
14 individual's death. The organ procurement organizations shall
15 not be assessed the fee for such information prescribed by 75
16 Pa.C.S. § 1955(a) (relating to information concerning drivers
17 and vehicles).

18 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue
19 Donation Awareness Trust Fund contributions.

20 (a) Driver's license.--

21 (1) Beginning as soon as practicable, but no later than
22 [January 1, 1995] 10 months after the effective date of this
23 paragraph, the Department of Transportation shall provide an
24 applicant for an original or renewal driver's license or
25 identification card the opportunity to make a contribution of
26 **[\$1] \$3** to the fund. The contribution shall be added to the <--
27 regular fee for an original or renewal driver's license or
28 identification card. One contribution may be made for each
29 issuance or renewal of a license or identification card.

30 Contributions shall be used exclusively for the purposes set

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

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

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

15 (b) Vehicle registration.--[The]

16 (1) Beginning as soon as practicable, but no later than
17 10 months after the effective date of this paragraph, the
18 Department of Transportation shall provide an applicant for a
19 renewal vehicle registration the opportunity to make a
20 contribution of **[\$1] \$3** to The Governor Robert P. Casey <--
21 Memorial Organ and Tissue Donation Awareness Trust Fund. The
22 contribution shall be added to the regular fee for a renewal
23 of a vehicle registration. One contribution may be made for
24 each renewal vehicle registration. Contributions shall be
25 used exclusively for the purposes described in section 8622.

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

1 (3) The Governor Robert P. Casey Memorial Organ and
2 Tissue Donation Awareness Trust Fund shall reimburse the
3 [department for the initial costs incurred in the development
4 and implementation of the contribution program under this
5 subsection.] Department of Transportation for the costs
6 incurred in the initial development and implementation of the
7 contribution program, as well as any additional costs that
8 may arise from changes that are agreed to by both the
9 Department of Transportation and the advisory committee.

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

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

27 (1) The Department of Transportation's publicly
28 accessible Internet website shall provide hyperlinks through
29 which persons may electronically make voluntary contributions
30 of at least \$1 to the fund. At a minimum, the hyperlinks

1 shall be provided in accordance with subsections (a)(1) and
2 (b)(1).

3 (2) The Department of Transportation shall provide
4 detailed information on the Department of Transportation's
5 publicly accessible Internet website, written in nonlegal
6 terms, in both English and Spanish, about anatomical
7 donation, organ donation and vascularized composite
8 allografts. The website shall include the following:

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

11 (ii) The risks and benefits of organ donation,
12 tissue donation and donation of eyes.

13 (iii) The risks and benefits of donating a hand,
14 facial tissue or limb or other vascularized composite
15 allografts. The information about risks and benefits
16 shall include information that the appearance of the
17 donor will be significantly altered after recovery and
18 that the surgical recovery team may perform
19 reconstructive surgery to prepare for burial. In
20 addition, the information shall include a statement that
21 a vascularized composite allograft may impact burial
22 arrangements and that an open casket may not be possible.
23 The information shall also include and clearly explain:

24 (A) The difference between hand, facial tissue
25 and limb donation and organ donation.

26 (B) The procedure for recovery of a hand, facial
27 tissue or limb or other vascularized composite
28 allograft.

29 (C) That Pennsylvania law requires explicit and
30 specific and separate consent to donate hands, facial

1 tissue or limbs or other vascularized composite
2 allografts from the donor and, when applicable, the
3 donor's family.

4 (D) The procedure needed to obtain consent from
5 family members for a donation of organs, tissues and
6 eyes and the procedure needed to obtain consent from
7 families for hands, facial tissue, limbs or other
8 vascularized composite allografts.

9 (E) That donation of hands, facial tissue or
10 limbs or other vascularized composite allografts is
11 voluntary.

12 (F) That documents such as living wills, advance
13 health care directives, health care powers of
14 attorney and powers of attorney may be used to permit
15 or deny making a donation of hands, facial tissue or
16 limbs or other vascularized composite allografts,
17 depending upon the individual's wishes.

18 (G) The procedure used by hospitals and organ
19 procurement organizations to effectuate a donation of
20 hands, facial tissue or limbs or other vascularized
21 composite allografts.

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

1 (I) That the individual may wish to consult with
2 a physician, attorney or clergy before making the
3 decision to make a donation of what we traditionally
4 think of as organs (heart, lung, liver, kidney) or a
5 donation of hands, facial tissue or limbs or other
6 vascularized composite allografts.

7 (iv) The laws of this Commonwealth regarding living
8 wills, health care powers of attorney, advance health
9 care directives, do-not-resuscitate orders and other
10 documents which can be used to provide, limit or deny
11 making or revoking an anatomical donation or a donation
12 of hands, facial tissue or limbs or other vascularized
13 composite allografts.

14 (v) A description regarding:

15 (A) the procedure used by hospitals and organ
16 procurement organizations to ask family members if
17 the individual will make an anatomical donation;

18 (B) if the individual may be or is an organ,
19 tissue or eye donor, the types of tests that will be
20 performed on the individual by a hospital, organ
21 procurement organization, tissue procurement
22 organization, eye bank or tissue bank and the
23 procedure used to recover organs, tissues and eyes,
24 including any differences in the procedure used to
25 recover organs; and

26 (C) brain death and cardiac death.

27 (3) The Department of Transportation shall provide the
28 material listed in paragraph (2) in written form, in English
29 and in Spanish, at all driver's license centers across this
30 Commonwealth. Additionally, the Department of Transportation

1 shall provide such materials upon request, including the
2 request of another agency of the Commonwealth.

3 (4) The Department of Health shall provide conspicuous
4 notice on the Department of Health's publicly accessible
5 Internet website that detailed information about anatomical
6 donation and donation of a hand, facial tissue, limb or other
7 vascularized composite allograft may be found on the
8 Department of Transportation's publicly accessible Internet
9 website. The Department of Health shall also provide a
10 conspicuous hyperlink to the information set forth in
11 paragraph (2).

12 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue
13 Donation Awareness Trust Fund.

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

24 (b) Appropriation.--All moneys deposited in the fund and
25 interest which accrues from those funds are appropriated on a
26 continuing basis subject to the approval of the Governor to
27 compensate the Department of Transportation, the Department of
28 Health and the Department of Revenue for actual costs related to
29 implementation of this chapter, including all costs of the
30 [Organ Donation Advisory Committee] advisory committee created

1 in subsection [(c)] (c.1). Any remaining funds are appropriated
2 subject to the approval of the Governor for the following
3 purposes:

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

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

24 (3) [15%] Fifteen percent may be expended by the
25 Department of Health, in cooperation with certified organ
26 procurement organizations, for the [Project-Make-A-Choice]
27 Project Make-A-Choice program, which shall include
28 information pamphlets designed by the Department of Health
29 relating to organ donor awareness and the laws regarding
30 organ donation, public information and public education about

1 contributing to the fund when obtaining or renewing a
2 driver's license OR IDENTIFICATION CARD and when completing a <--
3 State individual income tax return form. THE DEPARTMENT OF <--
4 HEALTH SHALL DEVELOP AN INFORMATIONAL INSERT FOR USE WHEN
5 RECEIVING A DRIVER'S LICENSE OR IDENTIFICATION CARD BASED ON
6 THE DEPARTMENT OF TRANSPORTATION'S SPECIFICATIONS IN
7 ACCORDANCE WITH THE REQUIREMENTS OF SECTION 8619(A.1)
8 (RELATING TO USE OF DRIVER'S LICENSE OR IDENTIFICATION CARD
9 TO INDICATE ORGAN OR TISSUE DONATION). Project Make-A-Choice
10 shall also provide the Internet website address and a
11 hyperlink for the Department of Transportation's Internet
12 website under section 8621(c)(2), and a statement that
13 detailed information about anatomical donation and donation
14 of a hand, facial tissue, limb or other vascularized
15 composite allograft, can be found on the Department of
16 Transportation's publicly accessible Internet website. The
17 Department of Health shall also design information pamphlets
18 about donation of hands, facial tissue and limbs and other
19 vascularized composite allografts. Project Make-a-Choice
20 shall also provide information about donation of hands,
21 facial tissue or limbs or other vascularized composite
22 allografts, which shall include the topics set forth in
23 section 8621(c)(2).

24 (4) [25%] Twenty-five percent may be expended by the
25 Department of Education for the implementation of organ
26 donation awareness programs in the secondary schools in this
27 Commonwealth.

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

30 (1) Two representatives of organ procurement

1 organizations.

2 (2) Two representatives of tissue procurement providers.

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

5 (4) Three representatives of acute care hospitals.

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

7 (6) One representative of eye banks.

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

1 (c.1) Advisory committee.--

2 (1) The Organ and Tissue Donation Advisory Committee is
3 established. Each member shall be appointed by the Governor.

4 Membership shall be as follows:

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

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

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

8 (iv) The Secretary of the Commonwealth or a
9 designee.

10 (v) One representative from each designated organ
11 procurement organization.

12 (vi) Two representatives of tissue procurement
13 providers.

14 (vii) Six members representative of:

15 (A) organ, tissue and eye recipients;

16 (B) families of recipients;

17 (C) donors; and

18 (D) families of donors.

19 (viii) Two representatives of acute care hospitals
20 which are:

21 (A) licensed in this Commonwealth; and

22 (B) members of the Statewide association
23 representing the interests of hospitals throughout
24 this Commonwealth.

25 (ix) One representative of eye banks.

26 (x) One representative of community health
27 organizations.

28 (xi) One elected county coroner of this
29 Commonwealth.

30 (2) A member under paragraph (1)(i), (ii), (iii) and

1 (iv) shall serve ex officio.

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

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

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

10 (iii) The Governor may reappoint an advisory
11 committee member for successive terms.

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

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

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

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

22 (ii) Recommend education and awareness training
23 programs.

24 (iii) Recommend priorities in expenditures from the
25 fund.

26 (iv) Advise the Secretary of Health on matters
27 relating to administration of the fund.

28 (v) Recommend legislation as necessary to fulfill
29 the purposes of this subchapter.

30 (5) The advisory committee shall submit a report

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

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

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

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

22 (f) Lead Commonwealth agency.--The Department of Health
23 shall be the lead Commonwealth agency responsible for promoting
24 organ, tissue and eye donation in this Commonwealth and shall
25 coordinate activities among other collaborating Commonwealth
26 agencies.

27 § 8623. Confidentiality requirement.

28 [The identity of the donor and of the recipient may not be
29 communicated unless expressly authorized by the recipient and
30 next of kin of the decedent.]

1 (a) General rule.--Except as provided in subsection (b), no
2 organ procurement organization, eye bank or tissue bank may
3 divulge any individually identifiable information acquired in
4 the course of performing the organization's or banks'
5 responsibilities under this chapter except for the purposes of
6 facilitating organ, eye or tissue donation and transplantation
7 or as otherwise required under applicable laws.

8 (b) Donors and recipients.--An organ procurement
9 organization, eye bank or tissue bank may communicate
10 individually identifiable information of the donor and recipient
11 if expressly authorized by:

12 (1) the recipient; and

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

15 § 8624. Prohibited activities.

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

24 (b) Unfair acts.--No organ procurement organization or
25 tissue procurement provider may disparage the services or
26 business of other procurement providers by false or misleading
27 representations of fact, engage in any other fraudulent conduct
28 to influence the selection by a hospital of a qualified tissue
29 procurement provider nor engage in unlawful competition or
30 discrimination. This subsection is not intended to restrict or

1 preclude any organ procurement organization or tissue
2 procurement provider from marketing or promoting its services in
3 the normal course of business.]

4 (c) Organ procurement organizations, eye banks and tissue
5 banks.--

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

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

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

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

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

19 (d) Funeral establishments.--

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

22 (i) remove body parts from a corpse;

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

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

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

28 (i) Removal is permissible if it is:

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

1 (B) authorized in writing by a family member,
2 guardian or other person responsible for disposition
3 of the body.

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

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

17 Section 8. Title 20 is amended by adding sections to read:
18 § 8625. Promotion of organ and tissue donation; Donate Life PA
19 Registry established.

20 (a) Promotion.--The Department of Transportation shall
21 ensure access by residents of this Commonwealth to an Internet-
22 based interface which promotes anatomical donation and enables
23 residents 18 years of age or older who hold a Pennsylvania
24 driver's license or identification card to register as an organ
25 or tissue donor and have that designation immediately integrated
26 into the current database maintained by the department. This
27 section shall not permit consent to donation of hands, facial
28 tissue or limbs or other vascularized composite allografts. The
29 Internet-based interface shall clearly state that the Internet-
30 based interface only permits consent to anatomical donation. The

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

7 (b) Paper form.--

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

24 (2) Registration shall be provided at no cost to the
25 registrant.

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

30 (d) Form and content.--The form and content of the Internet-

1 based interface shall be determined and maintained by the
2 Department of Transportation, after consulting with the
3 designated organ procurement organizations. The Internet-based
4 interface shall not permit consent to donation of hands, facial
5 tissue or limbs or other vascularized composite allografts.

6 ~~(e) Conflict.~~ <--

7 ~~(1) If there is a conflict between the wishes of an~~
8 ~~individual whose death is imminent or has died in a hospital~~
9 ~~as set forth in section 8617 (relating to requests for~~
10 ~~anatomical gifts) which indicate an intention to limit,~~
11 ~~revoke or deny making an anatomical gift and information~~
12 ~~entered into the Donate Life PA Registry which indicates the~~
13 ~~individual has a designation on the individual's driver's~~
14 ~~license of organ donor, the decision made by the individual~~
15 ~~which is more recent in time shall prevail. In the event that~~
16 ~~the information in the Donate Life PA Registry designating~~
17 ~~the individual as an organ donor is the more recent in time,~~
18 ~~then any limitation expressed by the individual regarding an~~
19 ~~intention to limit the anatomical gift to parts of the body~~
20 ~~recorded in a document in section 8617(c)(3) or any other~~
21 ~~document shall prevail.~~

22 ~~(2) Subject to paragraph (1), registration by a donor~~
23 ~~shall constitute sufficient authorization to donate organs~~
24 ~~and tissues for transplantation and therapy. Authorization of~~
25 ~~another person shall not be necessary to effectuate the~~
26 ~~anatomical gift.~~

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

1 ongoing operation of the Donate Life PA Registry.

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

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

8 (b) Full denial of recovery of organs.--If a coroner or
9 medical examiner is considering denying recovery of all of the
10 organs of a decedent, the coroner or medical examiner shall
11 comply with the procedure set forth in this subsection. The
12 following apply:

13 (1) The coroner or medical examiner or a designee shall
14 meet with a medical advisory group composed of the decedent's
15 attending physician or a designee, the transplant surgeon OR <--
16 A DESIGNEE and the applicable designated organ procurement
17 organization at the hospital, during a reasonable time
18 consistent with organ donation and preservation of forensic
19 evidence. In addition, the forensic pathologist may
20 participate as part of the medical advisory group by
21 appearing in person at the hospital, by telephone or through
22 electronic means.

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 decedent
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 all of the
30 decedent's organs, the coroner or medical examiner or a

1 designee must provide a written statement explaining the
2 reason for the denial. The statement shall be provided to the
3 designated organ procurement organization upon request. The
4 coroner or medical examiner or a designee shall ensure that
5 the written statement is made part of the coroner's or
6 medical examiner's file. The written statement shall be
7 exempt from the act of February 14, 2008 (P.L.6, No.3), known
8 as the Right-to-Know Law.

9 (c) Forms.--The coroner or medical examiner shall develop a
10 form for the purpose of stating that the coroner or medical
11 examiner has denied the recovery of all organs as set forth in
12 subsection (b). The coroner or medical examiner shall complete
13 the form when denying recovery of all of a decedent's organs as
14 set forth in subsection (b).

15 § 8626.1. Notification by coroners and medical examiners to
16 district attorneys.

17 (a) Applicability.--This section shall apply in all cases
18 when the coroner or medical examiner:

19 (1) must determine the cause of death and whether the
20 death may have resulted from criminal acts or criminal
21 neglect; and

22 (2) is not the coroner or medical examiner of the county
23 in which the cause precipitating the death of the individual
24 is believed to have occurred.

25 (b) Procedure.--The coroner or medical examiner specified in
26 subsection (a) (2) shall notify the coroner or medical examiner
27 of the county in which the cause precipitating the death of the
28 individual is believed to have occurred. After receiving the
29 notification, the coroner or medical examiner shall notify or
30 cause to be notified the district attorney of the county in

1 which the cause precipitating the death of the individual is
2 believed to have occurred.

3 § 8626.2. Discretionary notification by coroner or medical
4 examiner.

5 (a) Notification.--Except as set forth in subsection (b), a
6 coroner or medical examiner or designee may notify the
7 applicable designated organ procurement organization of a
8 person's death outside the hospital for the purpose of
9 facilitating recovery of tissues for transplant.

10 (b) Exception.--Notification shall not apply if:

11 (1) the person was admitted to the hospital at or around
12 the time of death; or

13 (2) the notification to the coroner or medical examiner
14 occurred more than 18 hours following the estimated time of
15 the person's death.

16 § 8627. Collaboration among departments and organ procurement
17 organizations.

18 (a) Mandatory.--

19 (1) For purposes of the ongoing development and
20 implementation of the Donate Life PA Registry, the Department
21 of Transportation shall collaborate with the designated organ
22 procurement organizations in applying for Federal or private
23 grants recommended by the organ procurement organizations.

24 (2) The Department of Transportation, in consultation
25 with designated organ procurement organizations, shall
26 establish an annual education program for photo license
27 technicians of the Department of Transportation regarding the
28 provisions of this subchapter.

29 (b) Discretionary.--Other Commonwealth agencies may
30 collaborate with the designated organ procurement organizations

1 in applying for Federal or private grants recommended by the
2 organ procurement organizations.

3 § 8627.1. Information relative to organ and tissue donation.

4 (a) Model curriculum.--Within nine months of the effective
5 date of this section, the Department of Education, in
6 consultation with the designated organ procurement
7 organizations, shall develop and post on the Department of
8 Education's publicly accessible Internet website a model
9 curriculum regarding organ donation for students in grades 9
10 through 12 which public and nonpublic schools may use to provide
11 instruction. The form and content of the model curriculum
12 regarding organ donation shall be determined by the Department
13 of Education. The model curriculum shall do all of the
14 following, at a minimum:

15 (1) Provide a comprehensive, scientific overview of
16 anatomical donation, its history and scientific advancement.

17 (2) Fully address the risks and benefits of and the
18 myths and misunderstandings regarding organ and tissue
19 donation.

20 (3) Explain the options available to minors and adults,
21 including the option of designating oneself as an organ and
22 tissue donor and the option of not designating oneself as an
23 organ donor.

24 (b) Materials.--Within nine months of the effective date of
25 this section, the Department of Education shall make related
26 instructional materials available on the Department of
27 Education's publicly accessible Internet website to public and
28 nonpublic schools educating students in grades 9 through 12. The
29 General Assembly shall encourage public and nonpublic schools to
30 use the instructional materials. Nothing in this subsection

1 shall be construed to require public or nonpublic schools to use
2 the instructional materials.

3 (c) Parental option.--A minor enrolled in a public or
4 nonpublic school shall be permitted to opt out of receiving
5 instruction or materials relating to anatomical donation as
6 provided under this section if the minor's parent or guardian
7 has provided written notice to the school.

8 (d) Institutions of higher education.--

9 (1) Beginning with the 2018-2019 school year, each
10 public institution of higher education in this Commonwealth
11 may provide, in collaboration with the designated organ
12 procurement organizations, information to its students,
13 either through student health services or as part of the
14 curriculum, which:

15 (i) provides a comprehensive, scientific overview of
16 anatomical donation, its history and scientific
17 advancement; and

18 (ii) addresses the risks and benefits of and the
19 myths and misunderstandings about anatomical donation.

20 (2) Beginning with the 2019-2020 school year, each
21 private institution of higher education in this Commonwealth
22 may provide, in collaboration with the designated organ
23 procurement organizations, information to its students,
24 either through student health services or as part of the
25 curriculum, which:

26 (i) provides a comprehensive, scientific overview of
27 anatomical donation, its history and scientific
28 advancement; and

29 (ii) addresses the risks and benefits of and the
30 myths and misunderstandings about anatomical donation.

1 § 8628. Requirements for physician and nurse training relative
2 to organ and tissue donation and recovery.

3 The State Board of Medicine, the State Board of Osteopathic
4 Medicine and the State Board of Nursing shall promulgate
5 regulations requiring physicians, osteopathic physicians and
6 professional nurses to complete a two-hour course on organ and
7 tissue donation and recovery designed to address the clinical
8 aspects of the donation and recovery process as a condition of
9 license renewal. The course may include information about
10 donation of hands, facial tissue and limbs and other
11 vascularized composite allografts. The course shall be completed
12 within five years of initial licensure or within five years of
13 licensure renewal, whichever occurs first.

14 § 8629. Department of Transportation.

15 The following shall apply:

16 (1) The Secretary of Transportation shall publish notice
17 in the Pennsylvania Bulletin of the completion of the
18 Department of Transportation's:

19 (i) Internet website established under section
20 8621(c)(2) (relating to the Governor Robert P. Casey
21 Memorial Organ and Tissue Donation Awareness Trust Fund
22 contributions);

23 (ii) establishment of the Donate Life PA registry;
24 and

25 (iii) establishment of the hyperlinks to enable
26 donation of money under section 8621.

27 (2) Until the notice under paragraph (1) is published,
28 the Secretary of Transportation shall issue a statement every
29 60 days to the chairperson and minority chairperson of the
30 Judiciary Committee of the Senate and the chairperson and

1 minority chairperson of the Judiciary Committee of the House
2 of Representatives regarding the actions taken by the
3 department to complete the requirements under paragraph (1).
4 § 8630. Department of Corrections.

5 The Department of Corrections shall, in consultation with an
6 organ procurement organization, provide information to or make
7 information available about anatomical donation to inmates in
8 State correctional institutions. The information may also
9 include information about donation of hands, facial tissue or
10 limbs and other vascularized composite allografts. The
11 information shall be provided or made available annually and
12 shall include topics under section 8621(c)(2) (relating to The
13 Governor Robert P. Casey Memorial Organ and Tissue Donation
14 Awareness Trust Fund contributions).

15 § 8631. Study of organ procurement organizations.

16 (a) Study.--The Legislative Budget and Finance Committee
17 shall conduct a study and performance evaluation of expenditures
18 which utilize grants from the Department of Health under section
19 8622(b) (relating to The Governor Robert P. Casey Memorial Organ
20 and Tissue Donation Awareness Trust Fund).

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

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

26 (2) The Judiciary Committee of the Senate.

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

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

1 § 8632. Relation to Electronic Signatures in Global and
2 National Commerce Act.

3 This chapter modifies, limits and supersedes the Electronic
4 Signatures in Global and National Commerce Act (Public Law 106-
5 229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,
6 limit or supersede section 101(c) of the Electronic Signatures
7 in Global and National Commerce Act or authorize electronic
8 delivery of any of the notices described in section 103(b) of
9 the Electronic Signatures in Global and National Commerce Act.

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

12 [SUBCHAPTER C

13 CORNEAL TRANSPLANTS

14 Sec.

15 8641. Removal of corneal tissue permitted under certain
16 circumstances.

17 8642. Limitation of liability.

18 § 8641. Removal of corneal tissue permitted under certain
19 circumstances.

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

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

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

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

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

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

11 § 8642. Limitation of liability.

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

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

20 SUBCHAPTER D

21 HANDS, FACIAL TISSUE, LIMBS AND OTHER

22 VASCULARIZED COMPOSITE ALLOGRAFTS

23 Sec.

24 8651. Scope of subchapter.

25 8652. Intent of General Assembly.

26 8653. Definitions.

27 8654. Requirement of explicit, specific and separate
28 authorization.

29 8655. Agents, next of kin and other surrogate decision makers.

30 8656. Procedure for requesting hands, facial tissue, limbs and

1 other vascularized composite allografts.
2 8657. Gift of vascularized composite allograft from decedent
3 whose death is under investigation.

4 8657.1. Notification by coroners and medical examiners to
5 district attorneys.

6 8658. Gifts of vascularized composite allografts.

7 8659. Rights and protections for certain individuals.

8 8660. Law on autopsies applicable.

9 8661. Vital records.

10 8662. Donees and vascularized composite allografts.

11 8663. Dissemination of information prohibited.

12 8664. Prohibited conduct.

13 8665. Funeral establishments.

14 8666. Limitation on liability.

15 § 8651. Scope of subchapter.

16 This subchapter applies exclusively to hands, facial tissue,
17 limbs and other vascularized composite allografts donated by an
18 individual whose death is imminent or who has died in the
19 hospital.

20 § 8652. Intent of General Assembly.

21 It is the intent of the General Assembly to provide guidance
22 to organ procurement organizations, hospitals, health care
23 professionals and the public about the donation of hands, facial
24 tissue, limbs and other vascularized composite allografts when
25 donated by an individual whose death is imminent or who has died
26 in the hospital. The General Assembly recognizes that a donation
27 of a vascularized composite allograft from an individual whose
28 death is imminent or who has died in the hospital, sometimes
29 referred to as authorization for a vascularized composite
30 allograft from a deceased donor, is a gift which must be given

1 freely. In order to be given freely, explicit and specific
2 consent must be obtained from donors or the donors' families.
3 Obtaining explicit and specific consent is the only way to
4 ensure transparency in the donation process and to preserve the
5 public trust. It is the intention of the General Assembly to
6 design policies and procedures to ensure that the donation of
7 hands, facial tissue, limbs and other vascularized composite
8 allografts from an individual whose death is imminent or who has
9 died in the hospital is only made with explicit and specific
10 consent.

11 § 8653. Definitions.

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

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

16 "Surrogate decision maker." An individual under section
17 8611(b) (1), (2), (3), (4), (5), (6), (7) or (8) (relating to
18 persons who may execute anatomical gift).

19 § 8654. Requirement of explicit, specific and separate
20 authorization.

21 The following apply:

22 (1) An individual of sound mind who is 18 years of age
23 or older may authorize recovery of hands, facial tissue,
24 limbs and other vascularized composite allografts. The
25 authorization may be in a will, living will, health care
26 power of attorney, power of attorney or other document. In
27 order to be valid, the authorization must be in writing,
28 witnessed by two other individuals, and explicitly and
29 specifically state that the individual authorizes the
30 recovery of the individual's hands, facial tissue, limbs or

1 other vascularized composite allografts. The authorization
2 must be provided separately from an anatomical donation. If
3 the individual explicitly, specifically and separately
4 authorizes such a gift and requests reconstructive surgery,
5 then the surgery shall be provided at no cost to the
6 individual or the individual's family or representative. Any
7 limitations on the provision of the gift authorized by the
8 individual shall be honored by the hospital, a donee under
9 section 8662 (relating to donees and vascularized composite
10 allografts), health care professionals involved in the
11 recovery and transplantation process, the organ procurement
12 organizations and any other person involved with the donation
13 and recovery of a vascularized composite allograft. If the
14 individual authorizes a gift of hands, facial tissue, limbs
15 or other vascularized composite allografts, then
16 authorization of a surrogate decision maker shall not be
17 necessary.

18 (2) It is unlawful for a minor to authorize the donation
19 of the minor's hands, facial tissue, limbs or other
20 vascularized composite allografts. In the case of a minor
21 whose death is imminent or who has died in a hospital, a
22 parent or guardian may authorize donation of the minor's
23 hands, facial tissue, limbs or other vascularized composite
24 allografts if the parent or guardian does not have actual
25 notice of contrary indications on the part of the minor with
26 respect to making a donation of the minor's hands, facial
27 tissue, limbs or other vascularized composite allografts and
28 there is no actual notice of opposition by the other parent.
29 If the parent or guardian has actual notice of contrary
30 indications or there is actual notice of opposition by the

1 other parent, then the parent or guardian is not authorized
2 to make such a gift. The hospital, health care professionals,
3 organ procurement organization and a donee under section 8662
4 shall not effectuate a donation if the minor evidenced
5 contrary indications regarding donation of the minor's hands,
6 facial tissue, limbs or other vascularized composite
7 allografts or there is actual notice of opposition by the
8 other parent.

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

13 § 8655. Agents, next of kin and other surrogate decision
14 makers.

15 The following apply:

16 (1) Subject to paragraph (2), a surrogate decision
17 maker, in order of priority stated when persons in prior
18 classes are not available at the time of death, and in the
19 absence of actual notice of contrary indications by the
20 decedent as set forth in subparagraph (ii) or evidence of a
21 prohibition, amendment, revocation or denial of a gift of a
22 vascularized composite allograft as set forth in subparagraph
23 (i) or actual notice of opposition by a member of the same or
24 a prior class, may authorize the donation of hands, facial
25 tissue, limbs or other vascularized composite allografts of
26 an individual who is at least 18 years of age and whose death
27 is imminent or who has died in a hospital if:

28 (i) there is no evidence of a prohibition,
29 amendment, revocation or denial of a gift of hands,
30 facial tissue, limbs and other vascularized composite

1 allografts in a living will, will, advance health care
2 directive, health care power of attorney, power of
3 attorney or other document of the individual; and

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

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

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

30 (ii) The surrogate decision maker is the subject of

1 a protection from abuse order, an order issued under 42
2 Pa.C.S. Ch. 62A (relating to protection of victims of
3 sexual violence or intimidation) or similar order from a
4 court that was issued to the individual.

5 (iii) The district attorney or a law enforcement
6 officer notifies the organ procurement organization that
7 the surrogate decision maker has been arrested or
8 detained in connection with the disease, illness, injury,
9 condition or death of the individual.

10 § 8656. Procedure for requesting hands, facial tissue, limbs
11 and other vascularized composite allografts.

12 The following applies to organ procurement organizations,
13 health care professionals, donees under section 8662 (relating
14 to donees and vascularized composite allografts) and other
15 persons who request a gift of hands, facial tissue, limbs and
16 other vascularized composite allografts from a surrogate
17 decision maker:

18 (1) The request for a donation must be made separately
19 from a request for donation under Subchapter B (relating to
20 express anatomical gifts). The request must explicitly and
21 specifically identify donations of hands, facial tissue,
22 limbs and other vascularized composite allografts as distinct
23 from traditional organs such as heart, liver, or lung or
24 tissues under Subchapter B. The discussion must educate the
25 surrogate decision maker about the process of recovery of
26 vascularized composite allografts and must clearly define and
27 explain all of the following:

28 (i) What a vascularized composite allograft is, the
29 benefit to the recipient and precisely what will be
30 recovered.

1 (ii) That any prior generalized authorization for an
2 anatomical gift under Subchapter B does not include a
3 gift of a hand, facial tissue, limb or other vascularized
4 composite allograft.

5 (iii) That permission for a gift of a hand, facial
6 tissue, limb or other vascularized composite allograft
7 must be given separately from the permission for a gift
8 under Subchapter B.

9 (iv) That the appearance of the individual whose
10 death is imminent or who has died in a hospital will be
11 significantly altered after the recovery of the gift and
12 that upon request the recovery team will perform
13 reconstructive surgery on the individual at no cost to
14 the individual, the individual's family or surrogate
15 decision maker. In addition, the discussion must explain
16 that the recovery of vascularized composite allografts
17 may impact burial arrangements and that an open casket
18 may not be possible.

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

22 (2) A deceased donor authorization form shall be used
23 which specifically identifies the option of authorizing a
24 gift of hands, facial tissue, limbs and other vascularized
25 composite allografts. The form must include a provision which
26 states that the surrogate decision maker and family of the
27 individual whose death is imminent or who has died in a
28 hospital understands the relevant anatomical details of the
29 donation, the alteration of the appearance of the individual,
30 including the impact of the recovery of vascularized

1 composite allografts upon funeral arrangements, and that,
2 despite the best efforts of the organ procurement
3 organization, the anonymity of the individual may not be
4 protected. Further, the form must provide information about
5 the nature of the discussion required under paragraph (1),
6 including:

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

8 (ii) for individuals who hold a professional or
9 occupational license, the names, addresses, telephone
10 numbers and professional or occupational license numbers
11 of the individuals who made the request for the donation
12 and provided the information under paragraph (1); and

13 (iii) a summary of the topics discussed and which
14 surrogate decision maker authorized the gift of a
15 vascularized composite allograft.

16 § 8657. Gift of vascularized composite allograft from decedent
17 whose death is under investigation.

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

22 (b) Denial of recovery of vascularized composite
23 allograft.--If a coroner or medical examiner is considering
24 denying recovery of the vascularized composite allograft of an
25 individual, the coroner or medical examiner shall comply with
26 the procedure set forth in this subsection. The following apply:

27 (1) The coroner or medical examiner or a designee shall
28 meet with a medical advisory group composed of the
29 individual's attending physician or a designee, the
30 transplant surgeon OR A DESIGNEE and the applicable

<--

1 designated organ procurement organization at the hospital,
2 during a reasonable time consistent with donation and
3 preservation of forensic evidence. In addition, the forensic
4 pathologist may participate as part of the medical advisory
5 group by appearing in person at the hospital, by telephone or
6 through electronic means.

7 (2) The medical advisory group shall provide the coroner
8 or medical examiner or a designee with the clinical findings
9 of testing and medical procedures performed on the individual
10 while at the hospital.

11 (3) If, after the review of the testing and medical
12 procedures set forth in paragraph (2), the coroner or medical
13 examiner or a designee intends to deny recovery of the
14 vascularized composite allograft, the coroner or medical
15 examiner or a designee must provide a written statement
16 explaining the reason for the denial. The statement shall be
17 provided to the designated organ procurement organization
18 upon request. The coroner or medical examiner or a designee
19 shall ensure the written statement is made part of the
20 coroner's or medical examiner's file. The written statement
21 shall be exempt from the act of February 14, 2008 (P.L.6,
22 No.3), known as the Right-to-Know Law.

23 (c) Forms.--The coroner or medical examiner shall develop a
24 form for the purpose of stating that the coroner or medical
25 examiner has denied the recovery of the vascularized composite
26 allograft as set forth in subsection (b). The coroner or medical
27 examiner shall complete the form when denying recovery of the
28 vascularized composite allograft as set forth in subsection (b).

29 § 8657.1. Notification by coroners and medical examiners to
30 district attorneys.

1 (a) Applicability.--This section shall apply in all cases
2 when the coroner or medical examiner:

3 (1) must determine the cause of death and whether the
4 death may have resulted from criminal acts or criminal
5 neglect; and

6 (2) the coroner or medical examiner is not the coroner
7 or medical examiner of the county in which the cause
8 precipitating the death of the individual is believed to have
9 occurred.

10 (b) Procedure.--The coroner or medical examiner specified in
11 subsection (a) (2) shall notify the coroner or medical examiner
12 of the county in which the cause precipitating the death of the
13 individual is believed to have occurred. After receiving the
14 notification, the coroner or medical examiner shall notify or
15 cause to be notified the district attorney of the county in
16 which the cause precipitating the death of the individual is
17 believed to have occurred.

18 § 8658. Gifts of vascularized composite allografts.

19 (a) Gift.--The following apply to vascularized composite
20 allografts:

21 (1) If the individual whose death is imminent or has
22 died in the hospital has a document of gift which authorizes
23 a gift of a vascularized composite allograft, the organ
24 procurement organization representative or the designated
25 requestor shall attempt to notify a surrogate decision maker.

26 (2) If no document of gift is known to the organ
27 procurement organization representative or the designated
28 requestor, then the organ procurement organization
29 representative or the designated requestor may ask the
30 surrogate decision maker whether the individual had a validly

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

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

17 (i) whether or not a document of gift is known to
18 exist and whether a gift of a vascularized composite
19 allograft was made;

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

23 (iii) all of the following:

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

30 (B) Whether the individual indicated in an

1 advance health care directive, living will, power of
2 attorney, health care power of attorney, will or
3 other document an intention to limit the anatomical
4 gifts of the individual in any way, including the
5 intention to limit an anatomical gift to parts of the
6 body which do not require a ventilator or other life-
7 sustaining measures, or to deny making or refusing to
8 make a gift of a vascularized composite allograft.

9 (C) Whether the individual amended or revoked a
10 gift of a vascularized composite allograft, in any
11 document specified in this subparagraph or in any
12 other document or in accordance with section 8615
13 (relating to amendment or revocation of gift).

14 (b) Testing.--

15 (1) This subsection shall apply if:

16 (i) a hospital refers an individual whose death is
17 imminent or who has died in a hospital to an organ
18 procurement organization;

19 (ii) the organ procurement organization, in
20 consultation with the individual's attending physician,
21 determines, based upon a medical record review and other
22 information supplied by the individual's attending
23 physician, that the individual may be a prospective donor
24 of a vascularized composite allograft; and

25 (iii) the individual has not:

26 (A) indicated in an advance health care
27 directive, a living will, power of attorney, health
28 care power of attorney, will, do-not-resuscitate
29 order or other document an intention to either limit
30 the anatomical gifts of the individual to parts of

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

5 (B) amended or revoked a gift of a vascularized
6 composite allograft in any document specified in
7 subsection (a) (3) or in any other document or in
8 accordance with section 8615.

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

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

30 (A) to evaluate medical suitability for donation

1 of a vascularized composite allograft and to
2 facilitate the donation process; and

3 (B) as required or permitted by law.

4 (ii) Subject to the wishes expressed by the
5 individual under subsection (a) (3), the hospital may not
6 withdraw ~~or withhold~~ any measures which are necessary to <--
7 maintain the medical suitability of the vascularized
8 composite allograft until the organ procurement
9 organization or designated requestor, as appropriate, has
10 had the opportunity to advise the surrogate decision
11 maker of the option to make a gift of a vascularized
12 composite allograft and has received or been denied
13 authorization to proceed with recovery of the ~~part~~ <--
14 VASCULARIZED COMPOSITE ALLOGRAFT. <--

15 (c) Testing after death.--Subject to the individual's wishes
16 under subsection (a) (3), after an individual's death, a person
17 to whom an anatomical gift may pass under section 8662 (relating
18 to donees and vascularized composite allografts) may conduct a
19 test or examination which is reasonably necessary to evaluate
20 the medical suitability of the ~~body or part~~ VASCULARIZED <--
21 COMPOSITE ALLOGRAFT for its intended purpose.

22 (d) Recipients.--Subject to the individual's wishes under
23 subsection (a) (3) and as set forth in this subchapter, a person
24 that accepts a gift of a vascularized composite allograft may
25 allow embalming, burial or cremation and the use of remains in a
26 funeral service. The person to whom the part passes under
27 section 8662, upon the death of the individual and before
28 embalming, burial or cremation, shall cause the vascularized
29 composite allograft to be removed without unnecessary
30 mutilation.

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

5 (f) Coordination of procurement and use.--The organ
6 procurement organization, hospital personnel and other
7 individuals involved in the process of recovering a vascularized
8 composite allograft shall limit the testing and examination of
9 the individual under this section so as to comply with the
10 wishes of the individual under subsection (a) (3).

11 § 8659. Rights and protections for certain individuals.

12 (a) General rule.--An individual who is in need of a
13 vascularized composite allograft shall not be deemed ineligible
14 to receive a vascularized composite allograft solely because of
15 the individual's physical or mental disability, except to the
16 extent that the physical or mental disability has been found by
17 a physician or surgeon following an individualized evaluation of
18 the individual to be medically significant to the provision of
19 the vascularized composite allograft. If an individual has the
20 necessary support system to assist the individual in complying
21 with posttransplant medical requirements, an individual's
22 inability to independently comply with those requirements shall
23 not be deemed to be medically significant.

24 (b) Definition.--As used in this section, the term
25 "disability" shall have the same meaning as in the Americans
26 with Disabilities Act of 1990 (Public Law 101-336, 104 Stat.
27 327).

28 § 8660. Law on autopsies applicable.

29 (a) General rule.--Subject to the provisions of section 8657
30 (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.

1 (a) General rule.--Except as provided in subsection (b), no
2 organ procurement organization, eye bank or tissue bank may
3 divulge any individually identifiable information acquired in
4 the course of performing the organization's or bank's
5 responsibilities under this chapter except for the purposes of
6 facilitating transplantation of vascularized composite
7 allografts.

8 (b) Donors and recipients.--An organ procurement
9 organization, eye bank or tissue bank may communicate
10 individually identifiable information of the donor and recipient
11 if expressly authorized by:

12 (1) the recipient; and

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

15 § 8664. Prohibited conduct.

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

20 (1) Disparage the services or business of another organ
21 procurement organization, eye bank or tissue bank by false or
22 misleading representations of fact.

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

25 (3) Engage in unlawful competition or discrimination.

26 (b) Construction.--This subsection is not intended to
27 restrict or preclude an organ procurement organization from
28 marketing or promoting the organ procurement organization's
29 services regarding recovery of vascularized composite allografts
30 in the normal course of business.

1 § 8665. Funeral establishments.

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

4 (1) remove vascularized composite allografts from a
5 corpse;

6 (2) permit others to remove vascularized composite
7 allografts from a corpse; or

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

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

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

14 (2) authorized in writing by a family member or
15 guardian.

16 § 8666. Limitation on liability.

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

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

26 (1) The following provisions shall take effect
27 immediately:

28 (i) This section.

29 (ii) The addition of 20 Pa.C.S. § 8613(i).

30 (iii) The addition of 20 Pa.C.S. § 8619(a.1).

1 (iv) The ~~addition~~ AMENDMENT of 20 Pa.C.S. § ~~8621(e)~~ <--
2 ~~(2)~~ 8621. <--
3 (v) The addition of 20 Pa.C.S. § 8626.
4 (vi) The addition of 20 Pa.C.S. § 8626.1.
5 (VII) THE ADDITION OF 20 PA.C.S. § 8626.2. <--
6 ~~(vii)~~ (VIII) The addition of 20 Pa.C.S. § 8627.1. <--
7 ~~(viii)~~ (IX) The addition of 20 Pa.C.S. § 8628. <--
8 ~~(ix)~~ (X) The addition of 20 Pa.C.S. § 8629. <--
9 ~~(x)~~ (XI) The addition of 20 Pa.C.S. § 8631. <--
10 ~~(xi)~~ (XII) The addition of 20 Pa.C.S. Ch. 86 Subch. <--
11 D.
12 (2) The amendment of 20 Pa.C.S. § 305(d)(2) shall take
13 effect in 60 days.
14 (3) The remainder of this act shall take effect upon
15 publication of the notice under 20 Pa.C.S. § 8629.