

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 30 Session of 2017

INTRODUCED BY PETRARCA, TOOHL, DRISCOLL, RAVENSTAHL, SOLOMON, DEAN, D. MILLER, D. COSTA, LONGIETTI, DAVIS, McNEILL, O'BRIEN, FREEMAN, BRIGGS, MENTZER, STURLA, MILLARD, KAVULICH, ROZZI, DEASY, ROEBUCK, DeLUCA, WARREN, HILL-EVANS, GILLEN, McCARTER, PHILLIPS-HILL, SCHWEYER, DeLISSIO, MULLERY, SIMS, GERGELY, KORTZ, FLYNN, BRADFORD, DALEY, PASHINSKI, J. HARRIS, BURNS, VITALI, O'NEILL, HANNA, KINSEY, MARKOSEK, P. COSTA, FRANKEL, DERMODY, FABRIZIO, CARROLL, PYLE AND COX, MAY 23, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MAY 23, 2017

AN ACT

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

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

3 Section 1. Section 5471 of Title 20 of the Pennsylvania  
4 Consolidated Statutes is amended to read:

5 § 5471. Example.

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

8 DURABLE HEALTH CARE POWER OF ATTORNEY  
9 AND HEALTH CARE TREATMENT INSTRUCTIONS

10 (LIVING WILL)

11 PART I

12 INTRODUCTORY REMARKS ON  
13 HEALTH CARE DECISION MAKING

14 You have the right to decide the type of health care you  
15 want.

16 Should you become unable to understand, make or  
17 communicate decisions about medical care, your wishes for  
18 medical treatment are most likely to be followed if you  
19 express those wishes in advance by:

20 (1) naming a health care agent to decide treatment  
21 for you; and

22 (2) giving health care treatment instructions to  
23 your health care agent or health care provider.

24 An advance health care directive is a written set of  
25 instructions expressing your wishes for medical treatment. It  
26 may contain a health care power of attorney, where you name a  
27 person called a "health care agent" to decide treatment for  
28 you, and a living will, where you tell your health care agent  
29 and health care providers your choices regarding the  
30 initiation, continuation, withholding or withdrawal of life-

1       sustaining treatment and other specific directions.

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

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

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

25          You should give a copy of your advance health care  
26      directive (a living will, health care power of attorney or a  
27      document containing both) to your health care agent, your  
28      physicians, family members and others whom you expect would  
29      likely attend to your needs if you become unable to  
30      understand, make or communicate decisions about medical care.

1 If your health care wishes change, tell your physician and  
2 write a new advance health care directive to replace your old  
3 one. It is important in selecting a health care agent that  
4 you choose a person you trust who is likely to be available  
5 in a medical situation where you cannot make decisions for  
6 yourself. You should inform that person that you have  
7 appointed him or her as your health care agent and discuss  
8 your beliefs and values with him or her so that your health  
9 care agent will understand your health care objectives.

10 You may wish to consult with knowledgeable, trusted  
11 individuals such as family members, your physician or clergy  
12 when considering an expression of your values and health care  
13 wishes. You are free to create your own advance health care  
14 directive to convey your wishes regarding medical treatment.  
15 The following form is an example of an advance health care  
16 directive that combines a health care power of attorney with  
17 a living will.

#### 18 NOTES ABOUT THE USE OF THIS FORM

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

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

25 You may add comments to this form or use your own form to  
26 help your physician or health care agent decide your medical  
27 care.

28 This form is designed to give your health care agent  
29 broad powers to make health care decisions for you whenever  
30 you cannot make them for yourself. It is also designed to

1 express a desire to limit or authorize care if you have an  
2 end-stage medical condition or are permanently unconscious.  
3 If you do not desire to give your health care agent broad  
4 powers, or you do not wish to limit your care if you have an  
5 end-stage medical condition or are permanently unconscious,  
6 you may wish to use a different form or create your own. YOU  
7 SHOULD ALSO USE A DIFFERENT FORM IF YOU WISH TO EXPRESS YOUR  
8 PREFERENCES IN MORE DETAIL THAN THIS FORM ALLOWS OR IF YOU  
9 WISH FOR YOUR HEALTH CARE AGENT TO BE ABLE TO SPEAK FOR YOU  
10 IMMEDIATELY. In these situations, it is particularly  
11 important that you consult with your attorney and physician  
12 to make sure that your wishes are clearly expressed.

13 This form allows you to tell your health care agent your  
14 goals if you have an end-stage medical condition or other  
15 extreme and irreversible medical condition, such as advanced  
16 Alzheimer's disease. Do you want medical care applied  
17 aggressively in these situations or would you consider such  
18 aggressive medical care burdensome and undesirable?

19 You may choose whether you want your health care agent to  
20 be bound by your instructions or whether you want your health  
21 care agent to be able to decide at the time what course of  
22 treatment the health care agent thinks most fully reflects  
23 your wishes and values.

24 If you are a woman and diagnosed as being pregnant at the  
25 time a health care decision would otherwise be made pursuant  
26 to this form, the laws of this Commonwealth prohibit  
27 implementation of that decision if it directs that life-  
28 sustaining treatment, including nutrition and hydration, be  
29 withheld or withdrawn from you, unless your attending  
30 physician and an obstetrician who have examined you certify

1 in your medical record that the life-sustaining treatment:

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

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

5 (3) will cause pain to you that cannot be alleviated by  
6 medication.

7 A physician is not required to perform a pregnancy test on  
8 you unless the physician has reason to believe that you may  
9 be pregnant.

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

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

20 PART II

21 DURABLE HEALTH CARE POWER OF ATTORNEY

22 I,....., of.....

23 County, Pennsylvania, appoint the person named below to be my  
24 health care agent to make health and personal care decisions  
25 for me.

26 Effective immediately and continuously until my death or  
27 revocation by a writing signed by me or someone authorized to  
28 make health care treatment decisions for me, I authorize all  
29 health care providers or other covered entities to disclose  
30 to my health care agent, upon my agent's request, any

1 information, oral or written, regarding my physical or mental  
2 health, including, but not limited to, medical and hospital  
3 records and what is otherwise private, privileged, protected  
4 or personal health information, such as health information as  
5 defined and described in the Health Insurance Portability and  
6 Accountability Act of 1996 (Public Law 104-191, 110 Stat.  
7 1936), the regulations promulgated thereunder and any other  
8 State or local laws and rules. Information disclosed by a  
9 health care provider or other covered entity may be  
10 redisclosed and may no longer be subject to the privacy rules  
11 provided by 45 C.F.R. Pt. 164.

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

17 MY HEALTH CARE AGENT HAS ALL OF THE FOLLOWING POWERS  
18 SUBJECT TO THE HEALTH CARE TREATMENT INSTRUCTIONS THAT FOLLOW  
19 IN PART III (CROSS OUT ANY POWERS YOU DO NOT WANT TO GIVE  
20 YOUR HEALTH CARE AGENT):

21 1. To authorize, withhold or withdraw medical care and  
22 surgical procedures.

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

26 3. To authorize my admission to or discharge from a  
27 medical, nursing, residential or similar facility and to make  
28 agreements for my care and health insurance for my care,  
29 including hospice and/or palliative care.

30 4. To hire and fire medical, social service and other

1 support personnel responsible for my care.

2 5. To take any legal action necessary to do what I have  
3 directed.

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

8 APPOINTMENT OF HEALTH CARE AGENT

9 I appoint the following health care agent:

10 Health Care Agent:.....  
11 (Name and relationship)  
12 Address:.....  
13 .....  
14 Telephone Number: Home..... Work.....  
15 E-mail:.....

16 IF YOU DO NOT NAME A HEALTH CARE AGENT, HEALTH CARE PROVIDERS  
17 WILL ASK YOUR FAMILY OR AN ADULT WHO KNOWS YOUR PREFERENCES  
18 AND VALUES FOR HELP IN DETERMINING YOUR WISHES FOR TREATMENT.  
19 NOTE THAT YOU MAY NOT APPOINT YOUR DOCTOR OR OTHER HEALTH  
20 CARE PROVIDER AS YOUR HEALTH CARE AGENT UNLESS RELATED TO YOU  
21 BY BLOOD, MARRIAGE OR ADOPTION.

22 If my health care agent is not readily available or if my  
23 health care agent is my spouse and an action for divorce  
24 is filed by either of us after the date of this document,  
25 I appoint the person or persons named below in the order  
26 named. (It is helpful, but not required, to name  
27 alternative health care agents.)

28 First Alternative Health Care Agent:.....  
29 (Name and relationship)  
30 Address:.....

1 .....

2 Telephone Number: Home..... Work.....

3 E-mail:.....

4 Second Alternative Health Care Agent:.....

5 (Name and relationship)

6 Address:.....

7 .....

8 Telephone Number: Home..... Work.....

9 E-mail:.....

10 GUIDANCE FOR HEALTH CARE AGENT (OPTIONAL) GOALS

11 If I have an end-stage medical condition or other extreme  
12 irreversible medical condition, my goals in making medical  
13 decisions are as follows (insert your personal priorities  
14 such as comfort, care, preservation of mental function,  
15 etc.):.....

16 .....

17 .....

18 .....

19 SEVERE BRAIN DAMAGE OR BRAIN DISEASE

20 If I should suffer from severe and irreversible brain  
21 damage or brain disease with no realistic hope of significant  
22 recovery, I would consider such a condition intolerable and  
23 the application of aggressive medical care to be burdensome.  
24 I therefore request that my health care agent respond to any  
25 intervening (other and separate) life-threatening conditions  
26 in the same manner as directed for an end-stage medical  
27 condition or state of permanent unconsciousness as I have  
28 indicated below.

29 Initials.....I agree

30 Initials.....I disagree

1 PART III

2 HEALTH CARE TREATMENT INSTRUCTIONS IN THE EVENT  
3 OF END-STAGE MEDICAL CONDITION  
4 OR PERMANENT UNCONSCIOUSNESS

5 (LIVING WILL)

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

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

18 1. I direct that I be given health care treatment to  
19 relieve pain or provide comfort even if such treatment might  
20 shorten my life, suppress my appetite or my breathing, or be  
21 habit forming.

22 2. I direct that all life prolonging procedures be  
23 withheld or withdrawn. (You may wish to consult with your  
24 physician and attorney about your wish to withdraw life  
25 prolonging measures in order to determine whether your  
26 designated choices regarding end-of-life care are compatible  
27 with anatomical donation. In order to donate an organ, your  
28 body may need to be maintained on artificial support after  
29 you have been declared dead in order to facilitate anatomical  
30 donation.)

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

4           heart-lung resuscitation (CPR).....

5           mechanical ventilator (breathing machine).....

6           dialysis (kidney machine).....

7           surgery.....

8           chemotherapy.....

9           radiation treatment.....

10          antibiotics.....

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

16          (Initial only one statement.)

17          TUBE FEEDINGS

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

19          OR

20          NO TUBE FEEDINGS

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

22          HEALTH CARE AGENT'S USE OF INSTRUCTIONS

23          (INITIAL ONE OPTION ONLY).

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

26          OR

27                 .....These instructions are only guidance.

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

1 .....

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

4 LEGAL PROTECTION

5 Pennsylvania law protects my health care agent and health  
6 care providers from any legal liability for their good faith  
7 actions in following my wishes as expressed in this form or  
8 in complying with my health care agent's direction. On behalf  
9 of myself, my executors and heirs, I further hold my health  
10 care agent and my health care providers harmless and  
11 indemnify them against any claim for their good faith actions  
12 in recognizing my health care agent's authority or in  
13 following my treatment instructions.

14 ANATOMICAL DONATION

15 (If you wish to be an organ donor, it may be necessary to  
16 maintain your body on artificial support in order to  
17 facilitate anatomical donation.)

18 ORGAN DONATION (INITIAL ONE OPTION ONLY.)

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

25 OR

26 .....I do not consent to donate my organs [or],  
27 tissues [at the time of my death.] or any other  
28 part of my body. This provision shall also serve  
29 as a revocation of any prior decision I have made  
30 to donate organs, tissues or any part of my body

1                   in a prior document, including a driver's  
2                   license, will, power of attorney or other  
3                   document.

4 SIGNATURE.....

5           Having carefully read this document, I have signed it  
6 this.....day of....., 20..., revoking all previous  
7 health care powers of attorney and health care treatment  
8 instructions.

9 .....

10 (SIGN FULL NAME HERE FOR HEALTH CARE POWER OF ATTORNEY AND  
11 HEALTH CARE TREATMENT INSTRUCTIONS)

12           WITNESS:.....

13           WITNESS:.....

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

21                                   NOTARIZATION (OPTIONAL)

22           (Notarization of document is not required by Pennsylvania  
23 law, but if the document is both witnessed and notarized, it  
24 is more likely to be honored by the laws of some other  
25 states.)

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



1 to take effect after the donor's death for the purpose of  
2 transplantation, therapy, research or education.

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

6 \* \* \*

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

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

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

22 \* \* \*

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

25 "Eye 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 human  
28 eyes or portions of human eyes.

29 \* \* \*

30 "Hospital administrator." Any individual appointed by a

1 hospital's governing body to act on its behalf in the overall  
2 management of the hospital. The term includes a designee of the  
3 individual who is authorized by the hospital to exercise  
4 supervisory authority.

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

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

9 "Organ." A human organ as defined in 42 CFR 121.2 (relating  
10 to definitions).

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

16 \* \* \*

17 "Person authorized or obligated to dispose of a decedent's  
18 body." Any of the following, without regard to order of  
19 priority:

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

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

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

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

28 \* \* \*

29 "Procurement organization." An organ procurement  
30 organization, eye bank or tissue bank.

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

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

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

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

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

19 "Recovery procedure." The process of removing cells, tissues  
20 and organs from a donor.

21 "Refusal." A writing or record signed by an individual  
22 expressly refusing to make any anatomical gifts of their body or  
23 part.

24 \* \* \*

25 "Tissue." A portion of the human body other than an organ or  
26 an eye. The term does not include blood, unless the blood is  
27 donated for the purpose of research or education.

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

1 tissue.

2 \* \* \*

3 Section 2. Sections 8611(a), (b) and (c) of Title 20 are  
4 amended and the section is amended by adding subsections to  
5 read:

6 § 8611. Persons who may execute anatomical gift.

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

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

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

4       (1) The spouse.

5       (2) An adult son or daughter.

6       (3) Either parent.

7       (4) An adult brother or sister.

8       (5) A guardian of the person of the decedent at the time  
9 of his death.

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

12       (1) An agent of the decedent at the time of death.

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

15       (3) An adult child of the decedent.

16       (4) A parent of the decedent.

17       (5) An adult sibling of the decedent.

18       (6) An adult grandchild of the decedent.

19       (7) A grandparent of the decedent.

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

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

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

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

1           (1) The district attorney notifies the organ procurement  
2 organization that the person is a suspect or a person of  
3 interest in causing the disease, illness, injury or condition  
4 of the decedent.

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

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

15           (b.2) Documentation required.--The organ procurement  
16 organization shall document the steps taken to contact any of  
17 the persons in subsection (b). Such documentation shall be  
18 maintained by the organ procurement organization for a minimum  
19 of six years.

20           (b.3) No obligation to make gift.--A person described in  
21 subsection (b) (2), (3), (4), (5), (6), (7), (8), (9) or (10) may  
22 not have a legal obligation to consent to making a gift of the  
23 decedent's body or part of the body.

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

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

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

29           (ii) The donee knows that a gift by a member of a  
30 class is opposed by a reasonably available member of [the

1 same or] a prior class[, the donee shall not accept the  
2 gift].

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

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

8 \* \* \*

9 Section 3. Section 8612 of Title 20 is amended to read:

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

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

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

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

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

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

25 (5) The board.]

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

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

29 (i) A hospital.

30 (ii) An accredited medical school, dental school,

1 college or university.

2 (iii) The board.

3 (iv) An organ procurement organization.

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

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

9 (3) An eye bank or tissue bank.

10 (4) An organ procurement organization.

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

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

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

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

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

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

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

30 (e) Multiple purposes.--If there is more than one purpose of

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

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

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

18 Section 4. Section 8613(b), (d) and (e) of Title 20 are  
19 amended and the section is amended by adding subsections to  
20 read:

21 § 8613. Manner of executing anatomical gifts.

22 \* \* \*

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

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

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

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

17 \* \* \*

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

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

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

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

16 (1) Subject to paragraph (2), a donor's gift of all or  
17 any part of the individual's body, including a designation in  
18 a registry on a driver's license or identification card,  
19 donor card, advance health care directive, will or other  
20 document of gift, may not be revoked by the next-of-kin or  
21 other persons identified in section 8611(b). The consent of  
22 any person [designated in section 8611(b)] at the time of the  
23 donor's death or immediately thereafter is not necessary to  
24 render the gift valid and effective.

25 (2) An agent, only if expressly authorized in writing in  
26 a power of attorney, advance directive, health care power of  
27 attorney or other document to override the decedent's  
28 instructions on the making of an anatomical gift, may revoke  
29 the decedent's gift.

30 \* \* \*

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

3 (1) this chapter;

4 (2) the law of the state or country where it was  
5 executed; or

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

9 (i) is domiciled;

10 (ii) has a place of residence; or

11 (iii) is a citizen.

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

15 (i) Rights and protections for an individual with a  
16 disability.--

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

29 (2) As used in this section, the term "disability" shall  
30 have the same meaning as in the Americans with Disabilities

1 Act of 1990 (Public Law 101-336, 104 Stat. 327).

2 Section 5. Section 8615 heading of Title 20 is amended and  
3 the section is amended by adding subsections to read:

4 § 8615. Amendment [or], revocation or refusal of gift.

5 \* \* \*

6 (d) Revocation by other authorized person.--Subject to  
7 subsection (e), an anatomical gift by a person authorized under  
8 section 8611(b) (relating to persons who may execute anatomical  
9 gift) may be amended or revoked orally or in a record by that  
10 person or by a majority of the reasonably available members of a  
11 prior class.

12 (e) Effectiveness of revocation.--A revocation made under  
13 this chapter shall take effect if, before an incision has been  
14 made to remove a part from the donor's body or before invasive  
15 procedures have begun to prepare the recipient, the applicable  
16 organ procurement organization, transplant hospital or physician  
17 or technician knows of the revocation.

18 (f) Revocation not a refusal.--A revocation made under this  
19 chapter shall not be considered a known objection or refusal to  
20 make a gift of one's body or a part of one's body nor a  
21 prohibition against a person described in section 8611(b) making  
22 such gift.

23 (g) Refusal.--An individual's unrevoked refusal to make an  
24 anatomical gift of the individual's body or part bars all other  
25 persons from making an anatomical gift of the individual's body  
26 or part.

27 Section 6. Sections 8616(b), (c) and (d), 8617, 8619, 8621,  
28 8622, 8623 and 8624 of Title 20 are amended to read:

29 § 8616. Rights and duties at death.

30 \* \* \*

1 (b) Physicians.--The time of death shall be determined by a  
2 physician who tends the donor at his death or, if none, the  
3 physician who certifies the death. [The physician or person who  
4 certifies death or any of his professional partners or  
5 associates shall not participate in the procedures for removing  
6 or transplanting a part.]

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

9 (1) Except as provided under paragraph (2), a person who  
10 acts in good faith in accordance with the terms of this  
11 subchapter or with the anatomical gift laws of another state  
12 or a foreign country [is not] shall not be liable for damages  
13 in any civil action or subject to prosecution in any criminal  
14 proceeding for [his] the person's act.

15 (2) The immunity from civil liability provided under  
16 paragraph (1) shall not extend to an act or omission  
17 resulting from gross negligence, recklessness or intentional  
18 misconduct of the person.

19 (3) Neither a person making an anatomical gift nor a  
20 donor's estate shall be liable for injury or damage that  
21 results from the making or use of the anatomical gift. In  
22 determining whether an anatomical gift has been made, amended  
23 or revoked under this chapter, a person may rely upon a  
24 representation of an individual listed under section 8611(b)  
25 regarding the individual's relationship to the donor or  
26 prospective donor unless the person knows that the  
27 representation is untrue.

28 (d) Law on autopsies applicable.--[The] Subject to sections  
29 8617 (relating to requests for anatomical gifts) and 8626  
30 (relating to facilitation of anatomical gift from decedent whose

1 death is under investigation), the provisions of this subchapter  
2 are subject to the laws of this Commonwealth prescribing powers  
3 and duties with respect to autopsies. Notwithstanding 18 Pa.C.S.  
4 Ch. 91 (relating to criminal history record information), an  
5 organ procurement organization is authorized to obtain a copy of  
6 an autopsy report in a timely fashion upon request and payment  
7 of reasonable copying fees.

8 § 8617. Requests for anatomical gifts.

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

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

22 (c) Donor card.--Notwithstanding any provision of law to the  
23 contrary, the intent of a decedent to participate in an organ  
24 donor program as evidenced by the possession of a validly  
25 executed donor card, donor driver's license, living will,  
26 durable power of attorney or other document of gift shall not be  
27 revoked by any member of any of the classes specified in section  
28 8611(b).

29 (d) Identification of potential donors.--Each acute care  
30 general hospital shall develop within one year of the date of

1 final enactment of this section, with the concurrence of the  
2 hospital medical staff, a protocol for identifying potential  
3 organ and tissue donors. It shall require that, at or near the  
4 time of every individual death, all acute care general hospitals  
5 contact by telephone their regional organ procurement  
6 organization to determine suitability for organ, tissue and eye  
7 donation of the individual in question. The person designated by  
8 the acute care general hospital to contact the organ procurement  
9 organization shall have the following information available  
10 prior to making the contact:

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

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

1 procurement organization representative or designated requestor  
2 shall ask persons pursuant to section 8611(b) whether the  
3 deceased was an organ donor. If the person designated under  
4 section 8611(b) does not know, then this person shall be  
5 informed of the option to donate organs and tissues. The  
6 protocol shall encourage discretion and sensitivity to family  
7 circumstances in all discussions regarding donations of tissue  
8 or organs. The protocol shall take into account the deceased  
9 individual's religious beliefs or nonsuitability for organ and  
10 tissue donation.

11 (e) Tissue procurement.--

12 (1) The first priority use for all tissue shall be  
13 transplantation.

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

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

29 (4) The regional organ procurement organization, with  
30 the assistance of tissue procurement providers, shall submit

1 an annual report to the General Assembly on the following:

2 (i) The number of tissue donors.

3 (ii) The number of tissue procurements for  
4 transplantation.

5 (iii) The number of tissue procurements recovered  
6 for research by each tissue procurement provider  
7 operating in this Commonwealth.

8 (f) Guidelines.--

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

16 (i) Establish guidelines regarding efficient  
17 procedures facilitating the delivery of anatomical gift  
18 donations from receiving hospitals to procurement  
19 providers.

20 (ii) Develop guidelines to assist hospitals in the  
21 selection and designation of tissue procurement  
22 providers.

23 (2) Each organ procurement organization and each tissue  
24 procurement provider operating within this Commonwealth  
25 shall, within six months of the effective date of this  
26 chapter, file with the Department of Health, for public  
27 review, its operating protocols.]

28 (a) Procedure.--

29 (1) A hospital located in this Commonwealth shall notify  
30 the applicable designated organ procurement organization or a

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

10 (2) The following shall apply to coroners and medical  
11 examiners:

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

21 (ii) Notification under this paragraph shall not be  
22 made if:

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

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

28 (b) Referrals.--If an organ procurement organization  
29 receives a referral of an individual whose death is imminent or  
30 who has died, the organ procurement organization shall make a

1 reasonable search of the records of the Donate Life PA Registry  
2 or the applicable State donor registry that it knows exists for  
3 the geographic area in which the individual resided or resides  
4 in order to ascertain whether the individual has made an  
5 anatomical gift.

6 (c) Document of gift.--

7 (1) If the referred patient has a document of gift,  
8 including registration with the Donate Life PA Registry, the  
9 procurement organization representative or the designated  
10 requestor shall attempt to notify a person listed in section  
11 8611(b) (relating to persons who may execute anatomical gift)  
12 of the gift.

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

27 (3) The hospital administrator or that person's  
28 designated representative shall indicate in the medical  
29 record of the decedent and the following information shall be  
30 communicated by the hospital administrator or a designee to

1 the organ procurement organization:

2 (i) whether or not a document of gift is known to  
3 exist or whether a gift was made;

4 (ii) if a gift was made, the name of the person  
5 granting the gift and that person's relationship to the  
6 decedent; and

7 (iii) whether the decedent executed an advance  
8 directive, a living will, a power of attorney, a health  
9 care power of attorney or another document, including a  
10 do-not-resuscitate order, evidencing an intention to  
11 limit, withdraw or withhold life-sustaining measures. The  
12 hospital administrator or the decedent's representative  
13 shall:

14 (A) Make a notation in the decedent's medical  
15 record whether the decedent indicated in a living  
16 will, power of attorney, health care power of  
17 attorney, will or other document evidencing an  
18 intention to either limit the anatomical gifts of the  
19 decedent or to deny making or refusing to make an  
20 anatomical gift.

21 (B) Indicate in the decedent's medical record if  
22 the decedent amended or revoked an anatomical gift.

23 (d) Testing.--

24 (1) This subsection shall apply if:

25 (i) a hospital refers an individual who is dead or  
26 whose death is imminent to an organ procurement  
27 organization;

28 (ii) the organ procurement organization determines,  
29 based upon a medical record review, that the individual  
30 may be a prospective donor; and

1 (iii) the decedent has not refused to make a gift  
2 under section 8613 (relating to manner of executing  
3 anatomical gifts).

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

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

14 (A) to evaluate medical suitability for donation  
15 and to facilitate the donation process; and

16 (B) as required or permitted by law.

17 (ii) The hospital may not withdraw or withhold any  
18 measures which are necessary to maintain the medical  
19 suitability of the part until the organ procurement  
20 organization has:

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

26 (B) has ascertained that the individual made a  
27 gift or expressed a known objection to making a gift.

28 (e) Testing after death.--After a donor's death, a person to  
29 whom an anatomical gift may pass under section 8612 (relating to  
30 persons who may become donees; purposes for which anatomical

1 gifts may be made) may conduct a test or examination which is  
2 reasonably necessary to evaluate the medical suitability of the  
3 body or part for its intended purpose.

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

8 (f.1) Recipients.--

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

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

22 (3) An organ procurement organization and other people  
23 involved in the organ donation process shall limit the  
24 testing and examination of the prospective donor authorized  
25 under this section to comply with any limitation expressed by  
26 the individual with respect to the part of the body to  
27 donate.

28 (f.2) Physicians.--

29 (1) Neither the physician who attends the decedent at  
30 death nor the physician who determines the time of the

1 decedent's death may participate in the procedures for  
2 removing or transplanting a part from the decedent.

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

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

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

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

18 (g) Death record review.--

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

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

24 (i) The [Department of Health] department shall  
25 select to carry out the review the Commonwealth-licensed  
26 organ procurement organization designated by the [Health  
27 Care Financing Administration] Centers for Medicare and  
28 Medicaid Services for the region within which the acute  
29 care general hospital is located. For an organ  
30 procurement organization to be selected under this

1           subparagraph, the organization must not operate nor have  
2           an ownership interest in an entity which provides all of  
3           the functions of a tissue procurement provider.

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

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

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

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

1           (5) An organ procurement organization may, upon request  
2           and payment of associated fees, obtain certified copies of  
3           death records of a donor from the Division of Vital Records  
4           of the department.

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

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

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

15 § 8619. Use of driver's license or identification card to  
16           indicate organ or tissue donation.

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

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

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

29 Only an affirmative response of an individual shall be noted on  
30 the front of the driver's license or identification card and

1 shall clearly indicate the individual's intent to donate his  
2 organs or tissue. [A notation on an individual's driver's  
3 license or identification card that he intends to donate his  
4 organs or tissue is deemed sufficient to satisfy all  
5 requirements for consent to organ or tissue donation.] The  
6 department shall record and store all donor designations in the  
7 Donate Life PA Registry. Subject to a decedent's wishes as  
8 expressed in a document listed under sections 8613(e)(2)  
9 (relating to manner of executing anatomical gifts) and 8617(c)  
10 (3)(iii) (relating to requests for anatomical gifts), a notation  
11 on an individual's driver's license or identification card that  
12 the individual intends to donate the individual's organs or  
13 tissue or the recorded and stored designation in the Donate Life  
14 PA Registry is deemed sufficient to satisfy all requirements for  
15 consent to organ or tissue donation. The recorded and stored  
16 designation is not a public record subject to disclosure as  
17 defined in section 102 of the act of February 14, 2008 (P.L.6,  
18 No.3), known as the Right-to-Know Law. Authorization for  
19 donation of vascularized composite allografts, including face  
20 and hand transplants, shall be subject to the requirements set  
21 forth in Federal law, regulations and standards.

22 (b) Electronic access.--The organ procurement organizations  
23 designated by the Federal Government in the Commonwealth of  
24 Pennsylvania as part of the nationwide organ procurement network  
25 [may] shall be given 24-hour-a-day electronic access to  
26 information necessary to confirm an individual's organ donor  
27 status through the Department of Transportation's driver  
28 licensing database. Necessary information shall include the  
29 individual's name, address, date of birth, driver's license  
30 number and organ donor status. Notwithstanding 75 Pa.C.S. § 6114

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

13 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue  
14 Donation Awareness Trust Fund contributions.

15 (a) Driver's license.--

16 (1) Beginning as soon as practicable, but no later than  
17 [January 1, 1995] 10 months after the effective date of this  
18 paragraph, the Department of Transportation shall provide an  
19 applicant for an original or renewal driver's license or  
20 identification card the opportunity to make a contribution of  
21 [\$1] \$3 to the fund. The contribution shall be added to the  
22 regular fee for an original or renewal driver's license or  
23 identification card. One contribution may be made for each  
24 issuance or renewal of a license or identification card.  
25 Contributions shall be used exclusively for the purposes set  
26 out in section 8622 (relating to The Governor Robert P. Casey  
27 Memorial Organ and Tissue Donation Awareness Trust Fund).

28 (2) The Department of Transportation shall monthly  
29 determine the total amount designated under this section and  
30 shall report that amount to the State Treasurer, who shall

1 transfer that amount to The Governor Robert P. Casey Memorial  
2 Organ and Tissue Donation Awareness Trust Fund.

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

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

11 (1) Beginning as soon as practicable, but no later than  
12 10 months after the effective date of this paragraph, the  
13 Department of Transportation shall provide an applicant for a  
14 renewal vehicle registration the opportunity to make a  
15 contribution of [\$1] \$3 to The Governor Robert P. Casey  
16 Memorial Organ and Tissue Donation Awareness Trust Fund. The  
17 contribution shall be added to the regular fee for a renewal  
18 of a vehicle registration. One contribution may be made for  
19 each renewal vehicle registration. Contributions shall be  
20 used exclusively for the purposes described in section 8622.

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

26 (3) The Governor Robert P. Casey Memorial Organ and  
27 Tissue Donation Awareness Trust Fund shall reimburse the  
28 [department for the initial costs incurred in the development  
29 and implementation of the contribution program under this  
30 subsection.] Department of Transportation for the costs

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

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

20 (c) Internet website.--The following shall become effective  
21 within one year of the effective date of this subsection:

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

28 (2) The Department of Health shall provide detailed  
29 information on its official publicly accessible Internet  
30 website, written in nonlegal terms, in both English and

1 Spanish, about organ donation, including:

2 (i) The laws of this Commonwealth.

3 (ii) The risks and benefits of organ donation.

4 (iii) The laws of this Commonwealth regarding living  
5 wills, advance directives, do-not-resuscitate orders and  
6 other documents which can be used to provide, limit or  
7 deny making an anatomical donation.

8 (iv) A description regarding:

9 (A) the procedure used by hospitals and organ  
10 procurement organizations to ask family members if  
11 the decedent will be an organ donor;

12 (B) if the decedent may be or is an organ donor,  
13 the types of tests that will be performed on the  
14 decedent and the procedure used to harvest organs,  
15 tissues and eyes, including any differences in the  
16 procedure used to harvest organs; and

17 (C) brain death and cardiac death.

18 (v) A statement that a person may consult with the  
19 person's physician or attorney before making the decision  
20 to make an anatomical gift.

21 (vi) A statement indicating that if the person  
22 intends to withhold or withdraw life-sustaining measures  
23 through an advance directive, living will or other  
24 document, such choices for their end-of-life care may be  
25 incompatible with organ donation.

26 (3) The Department of Health shall provide the material  
27 listed in paragraph (2) in written form, in both English and  
28 Spanish, at all driver's license centers across this  
29 Commonwealth. Additionally, the department shall provide such  
30 materials upon request, including the request of another

1 agency of the Commonwealth.

2 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue  
3 Donation Awareness Trust Fund.

4 (a) Establishment.--All contributions received by the  
5 Department of Transportation under section 8621 (relating to The  
6 Governor Robert P. Casey Memorial Organ and Tissue Donation  
7 Awareness Trust Fund contributions) [and the Department of  
8 Revenue under section 8618 (relating to voluntary contribution  
9 system)] and the Department of Health under section 8617  
10 (relating to requests for anatomical gifts) shall be deposited  
11 into a special fund in the State Treasury to be known as The  
12 Governor Robert P. Casey Memorial Organ and Tissue Donation  
13 Awareness Trust Fund, which is hereby established.

14 (b) Appropriation.--All moneys deposited in the fund and  
15 interest which accrues from those funds are appropriated on a  
16 continuing basis subject to the approval of the Governor to  
17 compensate the Department of Transportation, the Department of  
18 Health and the Department of Revenue for actual costs related to  
19 implementation of this chapter, including all costs of the Organ  
20 and Tissue Donation Advisory Committee created in subsection  
21 [(c)] (c.1). Any remaining funds are appropriated subject to the  
22 approval of the Governor for the following purposes:

23 (1) [10%] Ten percent of the total fund may be expended  
24 annually by the Department of Health for reasonable hospital  
25 and other medical expenses, funeral expenses and incidental  
26 expenses incurred by the donor or donor's family in  
27 connection with making [a vital organ donation] an organ or  
28 tissue donation, along with programming, to provide support  
29 services to organ and tissue donors and their families, such  
30 as bereavement counseling services. Such expenditures shall

1 not exceed \$3,000 per donor and shall only be made directly  
2 to the funeral home, hospital or other service provider  
3 related to the donation. No part of the fund shall be  
4 transferred directly to the donor's family, next of kin or  
5 estate. The advisory committee shall develop procedures,  
6 including the development of a pilot program, necessary for  
7 effectuating the purposes of this paragraph.

8 (2) [50%] Fifty percent may be expended for grants to  
9 certified organ procurement organizations for the development  
10 and implementation of organ donation awareness programs in  
11 this Commonwealth. The Department of Health shall develop and  
12 administer this grant program, which is hereby established.

13 (3) [15%] Fifteen percent may be expended by the  
14 Department of Health, in cooperation with certified organ  
15 procurement organizations, for the Project-Make-A-Choice  
16 program, which shall include information pamphlets designed  
17 by the Department of Health relating to organ donor awareness  
18 and the laws regarding organ donation, public information and  
19 public education about contributing to the fund when  
20 obtaining or renewing a driver's license and when completing  
21 a State individual income tax return form. The Project-Make-  
22 A-Choice program shall also provide the web address and a  
23 link for the Department of Health's publicly accessible  
24 Internet website under section 8621(c)(2) (relating to The  
25 Governor Robert P. Casey Memorial Organ and Tissue Donation  
26 Awareness Trust Fund contributions) and a statement that  
27 detailed information about organ donation can be found on the  
28 Department of Health's publicly accessible Internet website.

29 (4) [25%] Twenty-five percent may be expended by the  
30 Department of Education for the implementation of organ

1 donation awareness programs in the secondary schools in this  
2 Commonwealth.

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

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

7 (2) Two representatives of tissue procurement providers.

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

10 (4) Three representatives of acute care hospitals.

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

12 (6) One representative of eye banks.

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

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

6 (c.1) Advisory committee.--

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

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

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

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

13 (iv) The Secretary of the Commonwealth or a  
14 designee.

15 (v) One representative from each designated organ  
16 procurement organization.

17 (vi) Two representatives of tissue procurement  
18 providers.

19 (vii) Six members representative of:

20 (A) organ, tissue and eye recipients;

21 (B) families of recipients;

22 (C) donors; and

23 (D) families of donors.

24 (viii) Two representatives of acute care hospitals  
25 which are:

26 (A) licensed in this Commonwealth; and

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

30 (ix) One representative of eye banks.

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (iv) Advise the Secretary of Health on matters  
2           relating to administration of the fund.

3           (v) Recommend legislation as necessary to fulfill  
4           the purposes of this chapter.

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

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

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

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

27          (f) Lead Commonwealth agency.--

28                 (1) The Department of Health shall be the lead  
29                 Commonwealth agency responsible for promoting organ and  
30                 tissue donation in this Commonwealth and shall coordinate

1 activities among other collaborating Commonwealth agencies.

2 (2) Within the Department of Health there is established  
3 a full-time position of Organ and Tissue Donation Awareness  
4 Program Coordinator. The following shall apply:

5 (i) The Department of Health shall be reimbursed by  
6 The Governor Robert P. Casey Memorial Organ and Tissue  
7 Donation Awareness Trust Fund for the actual cost of the  
8 program coordinator position.

9 (ii) The program coordinator has the following  
10 powers and duties:

11 (A) Assist in administration of the fund.

12 (B) Serve as a full-time liaison to the advisory  
13 committee and assist the advisory committee in  
14 program development, projects, funding proposals and  
15 priorities.

16 (C) Serve as liaison with other Commonwealth  
17 agencies. This clause shall include working with the  
18 Department of Transportation to ensure that driver's  
19 license centers promote organ and tissue donation and  
20 comply with agreed-upon arrangements to display  
21 information and materials.

22 (D) Assist designated organ procurement  
23 organizations in their collaborations with other  
24 Commonwealth agencies.

25 (E) Provide input to designated organ  
26 procurement organizations regarding training of  
27 individuals performing notifications under section  
28 8617(c). Such training shall encourage discretion and  
29 sensitivity to family circumstances and the  
30 circumstances of the potential donor's death in all

1 discussions regarding donations of tissue or organs  
2 and take into account the potential donor's religious  
3 beliefs or nonsuitability for organ and tissue  
4 donation.

5 (F) Assist in resolving issues that may arise in  
6 hospitals in this Commonwealth regarding donation.

7 § 8623. Confidentiality requirement.

8 [The identity of the donor and of the recipient may not be  
9 communicated unless expressly authorized by the recipient and  
10 next of kin of the decedent.]

11 (a) General rule.--Except as provided in subsection (b), no  
12 procurement organization may divulge any individually  
13 identifiable information acquired in the course of performing  
14 its responsibilities under this chapter except for the purposes  
15 of facilitating organ, eye or tissue donation and  
16 transplantation or as otherwise required under applicable laws.

17 (b) Donors and recipients.--A procurement organization may  
18 communicate individually identifiable information of the donor  
19 and recipient if expressly authorized by:

20 (1) the recipient; and

21 (2) if the donor is alive, the donor, or if the donor is  
22 deceased, the next of kin of the donor.

23 § 8624. Prohibited activities.

24 [(a) Affiliates.--No organ procurement organization selected  
25 by the Department of Health under section 8617(g) (relating to  
26 requests for anatomical gifts) to conduct annual death reviews  
27 may use that review authority or any powers or privileges  
28 granted thereby to coerce or attempt to coerce a hospital to  
29 select the organization or any tissue procurement provider  
30 contractually affiliated with the organization as a designated

1 tissue procurement provider under section 8617(e).

2 (b) Unfair acts.--No organ procurement organization or  
3 tissue procurement provider may disparage the services or  
4 business of other procurement providers by false or misleading  
5 representations of fact, engage in any other fraudulent conduct  
6 to influence the selection by a hospital of a qualified tissue  
7 procurement provider nor engage in unlawful competition or  
8 discrimination. This subsection is not intended to restrict or  
9 preclude any organ procurement organization or tissue  
10 procurement provider from marketing or promoting its services in  
11 the normal course of business.]

12 (c) Procurement organizations.--

13 (1) A procurement organization shall not do any of the  
14 following:

15 (i) Disparage the services or business of another  
16 procurement organization by false or misleading  
17 representations of fact.

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

20 (iii) Engage in unlawful competition or  
21 discrimination.

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

25 (d) Funeral establishments.--

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

28 (i) remove body parts from a corpse;

29 (ii) permit others to remove body parts from a  
30 corpse; or

1           (iii) use funeral establishment facilities to remove  
2 body parts from a corpse.

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

4           (i) Removal is permissible if it is:

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

7                   (B) authorized in writing by a family member,  
8 guardian or other person responsible for disposition  
9 of the body.

10           (ii) Notwithstanding any other provision of law, if  
11 a donation is authorized under this chapter, a designated  
12 organ procurement organization and a Pennsylvania  
13 nonprofit eye bank accredited by the Eye Bank Association  
14 of America may recover donated ocular tissue, including  
15 the whole eye, cornea and sclera, and associated blood  
16 specimens at a funeral establishment.

17           (3) If a funeral director is notified by a person  
18 authorized to make donations under this chapter that the  
19 person wishes to donate body parts from a corpse within the  
20 funeral director's custody, the funeral director shall  
21 immediately notify the organ procurement organization  
22 designated to serve that region.

23           Section 7. Title 20 is amended by adding sections to read:

24 § 8625. Promotion of organ and tissue donation; Donate Life PA  
25 Registry established.

26           (a) Promotion.--The Department of Transportation shall  
27 ensure access by residents of this Commonwealth to an Internet-  
28 based interface which promotes organ and tissue donation and  
29 enables residents 18 years of age or older who hold a  
30 Pennsylvania driver's license or identification card to register

1 as donors and have that designation immediately integrated into  
2 the current database maintained by the Department of  
3 Transportation.

4 (b) Paper form.--

5 (1) Within one year of the effective date of this  
6 section, the department shall establish a system which allows  
7 individuals who have been issued a driver's license or  
8 identification card to add their donor designation to the  
9 Donate Life PA Registry by submitting a form to the  
10 department.

11 (2) Registration shall be provided at no cost to the  
12 registrant.

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

17 (d) Form and content.--The form and content of the Internet-  
18 based interface shall be determined and maintained by the  
19 Department of Transportation, after consulting with the  
20 designated organ procurement organizations.

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

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

30 § 8626. Facilitation of anatomical gift from decedent whose

1 death is under investigation.

2 (a) Coordination.--

3 (1) Upon identification of a prospective donor, the  
4 designated organ procurement organization shall, within a  
5 reasonable time, notify the coroner or medical examiner of  
6 the county in which the prospective donor is located.

7 (2) Upon notification as described in paragraph (1), a  
8 coroner or medical examiner intending to investigate a  
9 prospective donor's death shall, to the extent applicable and  
10 reasonable under the circumstances:

11 (i) Notify the coroner or medical examiner of the  
12 county in which the cause precipitating the prospective  
13 donor's death is believed to have occurred, who shall  
14 then cause the district attorney of the county to be  
15 notified in accordance with internal county protocols.

16 (ii) Notify the applicable organ procurement  
17 organization of any change in jurisdiction.

18 (3) Organ procurement organizations shall in all cases  
19 cooperate with the coroner or medical examiner in order to  
20 facilitate the preservation and collection of forensic  
21 evidence. Organ procurement organizations shall not move or  
22 cause to be moved a prospective donor without authorization  
23 of the coroner or medical examiner having jurisdiction. Upon  
24 request, an organ procurement organization shall provide or  
25 assist the coroner or medical examiner in obtaining:

26 (i) Medical records.

27 (ii) Photographs.

28 (iii) Specimens, including blood and tissue.

29 (iv) Laboratory and diagnostic test results.

30 (v) Any other available information.

1           (4) If applicable, the coroner or medical examiner shall  
2 timely notify the organ procurement organization of any  
3 additional requests from the coroner, medical examiner or  
4 district attorney of the county where the cause of death is  
5 believed to have occurred, including scheduling the recovery  
6 procedure to permit their attendance where the scheduling can  
7 be done in a time frame consistent with facilitating  
8 anatomical donation.

9           (5) Notwithstanding the provisions of 18 Pa.C.S. Ch. 91  
10 (relating to criminal history record information), a coroner  
11 or medical examiner shall, upon request, release to the organ  
12 procurement organization the name, contact information and  
13 available medical and social history of a decedent whose  
14 death is under investigation. The information provided under  
15 this paragraph shall be exempt from the act of February 14,  
16 2008 (P.L.6, No.3), known as the Right-to-Know Law.

17       (b) Facilitation of donation.--If a coroner or medical  
18 examiner has jurisdiction in the case of a prospective organ  
19 donor, the coroner or medical examiner shall have the final  
20 authority to disallow an anatomical gift and the following shall  
21 apply:

22           (1) If the coroner or medical examiner is considering  
23 denying recovery of one or more organs intended for  
24 transplant or therapy, the coroner or medical examiner shall  
25 notify the applicable organ procurement organization.

26           (2) The coroner or medical examiner and the applicable  
27 organ procurement organization shall seek to agree to  
28 limitations to the donation that address the needs of the  
29 coroner or medical examiner.

30           (3) If a limitation to the donation that addresses a

1 need of the coroner or medical examiner cannot be reached,  
2 the coroner, medical examiner or the coroner's or medical  
3 examiner's designee shall attend the organ recovery  
4 procedure. The following shall apply:

5 (i) The organ procurement organization shall use the  
6 organization's best efforts to schedule the recovery  
7 procedure at the time reasonably requested by the coroner  
8 or medical examiner.

9 (ii) The coroner or medical examiner or the  
10 coroner's or medical examiner's designee in attendance  
11 may deny removal of an organ if, in the individual's  
12 judgment, the removal of the organ may interfere with or  
13 impede the investigation of the cause, manner and  
14 mechanism of death of the donor.

15 (iii) For the denial of removal of an organ to be  
16 valid, the coroner, medical examiner or the coroner's or  
17 medical examiner's designee must be in attendance at the  
18 recovery procedure. Attendance must be in-person or, if  
19 in-person attendance is not possible in a time frame  
20 consistent with facilitating donation and if available,  
21 by electronic communication which includes a live visual  
22 depiction of the recovery procedure.

23 (iv) If the coroner, medical examiner or the  
24 coroner's or medical examiner's designee denies removal  
25 of an organ, the coroner or medical examiner shall  
26 provide to the designated organ procurement organization  
27 a written explanation of the reason for determining that  
28 the removal of the organ may interfere with or impede the  
29 investigation of the cause, manner and mechanism of  
30 death. Information provided under this paragraph shall be

1 exempt from the Right-to-Know Law.

2 (v) Removal of an organ may not occur if the coroner  
3 or medical examiner or the coroner's or medical  
4 examiner's designee has denied removal of that organ in  
5 accordance with this section.

6 (vi) The applicable organ procurement organization  
7 shall reimburse the coroner or medical examiner for the  
8 reasonable costs of attendance at the recovery procedure.

9 (c) Report.--If requested by the coroner, medical examiner  
10 or district attorney, the physician recovering an organ under  
11 this section shall provide a report and, if necessary, be  
12 available to provide testimony in any proceeding, detailing the  
13 condition of the organ and the recovery procedure. Reasonable  
14 costs associated with a physician or technician's providing  
15 testimony under this section shall be paid by the designated  
16 organ procurement organization. A report prepared under this  
17 subsection shall be exempt from the Right-to-Know Law.

18 (d) Timing.--The requirements of this section shall be  
19 performed in a manner and time frame consistent with anatomical  
20 donation.

21 § 8627. Collaboration among departments and organ procurement  
22 organizations.

23 (a) Mandatory.--

24 (1) For purposes of the ongoing development and  
25 implementation of the Donate Life PA Registry, the Department  
26 of Transportation shall collaborate with the designated organ  
27 procurement organizations in applying for Federal or private  
28 grants recommended by the organ procurement organizations.

29 (2) The Department of Transportation, in consultation  
30 with designated organ procurement organizations, shall

1 establish an annual education program for photo license  
2 technicians of the Department of Transportation.

3 (b) Discretionary.--Other Commonwealth agencies may  
4 collaborate with the designated organ procurement organizations  
5 in applying for Federal or private grants recommended by the  
6 organ procurement organizations.

7 § 8628. Information relative to organ and tissue donation.

8 (a) Curriculum.--The Department of Education, in  
9 consultation with the designated organ procurement  
10 organizations, shall review the Commonwealth's educational  
11 curriculum framework to ensure that information about organ  
12 donation is included in the standards for students in grades 9  
13 through 12 beginning with the 2016-2017 school year. The form  
14 and content of the curriculum regarding organ donation shall be  
15 determined by the Department of Education.

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

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

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

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

26 (c) Materials.--The Department of Education shall make  
27 related instructional materials available to public and  
28 nonpublic schools educating students in grades 9 through 12. The  
29 General Assembly shall encourage nonpublic schools to use the  
30 instructional materials. Nothing in this subsection shall be

1 construed to require nonpublic schools to use the instructional  
2 materials.

3 (c.1) Parental option.--A minor enrolled in a public or  
4 nonpublic school may 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 2017-2018 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 2017-2018 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 § 8629. 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 the license renewal for their first renewal after the effective  
10 date of this section.

11 § 8629.1. Department of Transportation.

12 The following shall apply:

13 (1) The Secretary of Transportation shall publish notice  
14 in the Pennsylvania Bulletin of the completion of the  
15 Department of Transportation's:

16 (i) Internet website;

17 (ii) establishment of the Donate Life PA registry;

18 and

19 (iii) establishment of the links to enable donation  
20 of money under section 8621 (relating to The Governor  
21 Robert P. Casey Memorial Organ and Tissue Donation  
22 Awareness Trust Fund contributions).

23 (2) Until the notice under paragraph (1) is published,  
24 the Secretary of Transportation shall issue a statement every  
25 60 days to the chairperson and minority chairperson of the  
26 Judiciary Committee of the Senate and the chairperson and  
27 minority chairperson of the Judiciary Committee of the House  
28 of Representatives regarding the steps taken by the  
29 department to complete the requirements of paragraph (1).

30 § 8629.2. Department of Corrections.

1 The Department of Corrections shall, in consultation with an  
2 organ procurement organization, provide information to or make  
3 information available about anatomical donation to inmates in  
4 State Correctional Institutions. The information shall be  
5 provided or made available annually and shall include topics  
6 under section 8621(c)(2) (relating to The Governor Robert P.  
7 Casey Memorial Organ and Tissue Donation Awareness Trust Fund  
8 contributions).

9 § 8630. Uniformity of application and construction.

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

14 § 8631. Relation to Electronic Signatures in Global and  
15 National Commerce Act.

16 This chapter modifies, limits and supersedes the Electronic  
17 Signatures in Global and National Commerce Act (Public Law 106-  
18 229, 15 U.S.C. § 7001 et seq.). This chapter shall not modify,  
19 limit or supersede section 101(c) of the Electronic Signatures  
20 in Global and National Commerce Act or authorize electronic  
21 delivery of any of the notices described in section 103(b) of  
22 the Electronic Signatures in Global and National Commerce Act.

23 Section 8. Subchapter C of Chapter 86 of Title 20 is  
24 repealed:

25 [SUBCHAPTER C

26 CORNEAL TRANSPLANTS

27 Sec.

28 8641. Removal of corneal tissue permitted under certain  
29 circumstances.

30 8642. Limitation of liability.

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

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

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

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

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

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

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

24 § 8642. Limitation of liability.

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

1 Section 9. This act shall take effect as follows:

2 (1) The addition of 20 Pa.C.S. § 8629.1 shall take  
3 effect immediately.

4 (2) This section shall take effect immediately.

5 (3) The remainder of this act shall take effect upon  
6 publication of the notice under 20 Pa.C.S. § 8629.1.