

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 30 Session of 2015

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 21, 2016

AN ACT

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

1 Signatures in Global and National Commerce Act; and repealing  
2 provisions relating to corneal transplants.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

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

10 § 8601. Definitions.

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

14 \* \* \*

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

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

18 "Advisory committee." The Organ and Tissue Donation Advisory  
19 Committee established under section 8622 (relating to The  
20 Governor Robert P. Casey Memorial Organ and Tissue Donation  
21 Awareness Trust Fund).

22 "Agent." Any of the following:

23 (1) A health care agent authorized to make health care  
24 decisions on a principal's behalf under Subchapter C of  
25 Chapter 54 (relating to health care agents and  
26 representatives).

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

30 "Anatomical gift." A donation of all or part of a human body  
31 to take effect after the donor's death for the purpose of

1 transplantation, therapy, research or education.

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

5 \* \* \*

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

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

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

21 \* \* \*

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

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

28 \* \* \*

29 "Hospital administrator." Any individual appointed by a  
30 hospital's governing body to act on its behalf in the overall

1 management of the hospital. The term includes a designee of the  
2 individual who is authorized by the hospital to exercise  
3 supervisory authority.

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

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

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

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

15 \* \* \*

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

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

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

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

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

27 \* \* \*

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

30 "Program coordinator." The Organ and Tissue Donation

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

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

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

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

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

18 \* \* \*

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

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

26 \* \* \*

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

29 § 8611. Persons who may execute anatomical gift.

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

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

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

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

1 (4) An adult brother or sister.

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

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

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

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

10 (3) An adult child of the decedent.

11 (4) A parent of the decedent.

12 (5) An adult sibling of the decedent.

13 (6) An adult grandchild of the decedent.

14 (7) A grandparent of the decedent.

15 (8) Any other person related to the decedent by blood,  
16 marriage or adoption or a person with an established  
17 relationship with, and who exhibited special care and concern  
18 for, the decedent.

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

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

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

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

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

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

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

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

6           \* \* \*

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

8           § 8612. Persons who may become donees; purposes for which  
9                           anatomical gifts may be made.

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

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

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

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

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

23                   (5) The board.]

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

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

27                           (i) A hospital.

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

30                           (iii) The board.

1           (iv) An organ procurement organization.

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

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

7           (3) An eye bank or tissue bank.

8           (4) An organ procurement organization.

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

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

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

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

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

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

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

28          (e) Multiple purposes.--If there is more than one purpose of  
29          an anatomical gift set forth in the document of gift but the  
30          purposes are not set forth in any priority, the gift shall be

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

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

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

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

19 § 8613. Manner of executing anatomical gifts.

20 \* \* \*

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

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

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

13 (2) the identification card by the Department of  
14 Transportation.

15 \* \* \*

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

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

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

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

21 \* \* \*

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

24 (1) this chapter;

25 (2) the law of the state or country where it was  
26 executed; or

27 (3) the law of the state or country where, at the time  
28 of execution of the document of gift, the person making the  
29 anatomical gift:

30 (i) is domiciled;

1           (ii) has a place of residence; or

2           (iii) is a citizen.

3       (h) Choice of law.--If a document of gift is valid under  
4 this section, the law of this Commonwealth governs  
5 interpretation of the document.

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

14       Section 5. Section 8615 of Title 20 is amended by adding  
15 subsections to read:

16 § 8615. Amendment or revocation of gift.

17       \* \* \*

18       (d) Revocation by other authorized person.--Subject to  
19 subsection (e), an anatomical gift by a person authorized under  
20 section 8611(b) (relating to persons who may execute anatomical  
21 gift) may be amended or revoked orally or in a record by that  
22 person or by a majority of the reasonably available members of a  
23 prior class.

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

30       (f) Revocation not a refusal.--A revocation made under this

1 chapter shall not be considered a known objection or refusal to  
2 make a gift of one's body or a part of one's body nor a  
3 prohibition against a person described in section 8611(b)  
4 (relating to persons who may execute anatomical gift) making  
5 such gift.

6 Section 6. Sections 8616(b), (c) and (d), 8617, 8619, 8621,  
7 8622, 8623 and 8624 of Title 20 are amended to read:

8 § 8616. Rights and duties at death.

9 \* \* \*

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

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

29 (d) Law on autopsies applicable.--The provisions of this  
30 subchapter are subject to the laws of this Commonwealth

1 prescribing powers and duties with respect to autopsies.  
2 Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history  
3 record information), an organ procurement organization is  
4 authorized to obtain a copy of an autopsy report in a timely  
5 fashion upon request and payment of reasonable copying fees.

6 § 8617. Requests for anatomical gifts.

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

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

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

27 (d) Identification of potential donors.--Each acute care  
28 general hospital shall develop within one year of the date of  
29 final enactment of this section, with the concurrence of the  
30 hospital medical staff, a protocol for identifying potential

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

9 (1) The patient's identifier number.

10 (2) The patient's age.

11 (3) The cause of death.

12 (4) Any past medical history available.

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

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

9 (e) Tissue procurement.--

10 (1) The first priority use for all tissue shall be  
11 transplantation.

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

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

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

30 (i) The number of tissue donors.

1 (ii) The number of tissue procurements for  
2 transplantation.

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

6 (f) Guidelines.--

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

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

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

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

26 (a) Procedure.--

27 (1) A hospital located in this Commonwealth shall notify  
28 the applicable designated organ procurement organization or a  
29 third party designated by that organization of an individual  
30 whose death is imminent or who has died in the hospital.

1 Notification shall be made in a timely manner to ensure that  
2 examination, evaluation and ascertainment of donor status as  
3 set forth in subsection (d) can be completed within a time  
4 frame compatible with the donation of organs and tissues for  
5 transplant. The notification shall be made without regard to  
6 whether the person has executed an advance directive for  
7 health care.

8 (2) The following shall apply to coroners and medical  
9 examiners:

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

19 (ii) Notification under this paragraph shall not be  
20 made if:

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

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

26 (b) Referrals.--If an organ procurement organization  
27 receives a referral of an individual whose death is imminent or  
28 who has died, the organ procurement organization shall make a  
29 reasonable search of the records of the Donate Life PA Registry  
30 or the applicable State donor registry that it knows exists for

1 the geographic area in which the individual resided or resides  
2 in order to ascertain whether the individual has made an  
3 anatomical gift.

4 (c) Document of gift.--

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

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

25 (3) The hospital administrator or that person's  
26 designated representative shall indicate in the medical  
27 record of the decedent:

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

30 (ii) if a gift was made, the name of the person

1 granting the gift and that person's relationship to the  
2 decedent.

3 (d) Testing.--

4 (1) This subsection shall apply if:

5 (i) a hospital refers an individual who is dead or  
6 whose death is imminent to an organ procurement  
7 organization; and

8 (ii) the organ procurement organization determines,  
9 based upon a medical record review, that the individual  
10 may be a prospective donor.

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

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

21 (A) to evaluate medical suitability for donation  
22 and to facilitate the donation process; and

23 (B) as required or permitted by law.

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

28 (A) had the opportunity to advise the applicable  
29 persons as set forth in section 8611(b) of the option  
30 to make an anatomical gift and has received or been

1 denied authorization to proceed with recovery of the  
2 part; or

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

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

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

15 (f.1) Recipients.--

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

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

29 (f.2) Physicians.--

30 (1) Neither the physician who attends the decedent at

1 death nor the physician who determines the time of the  
2 decedent's death may participate in the procedures for  
3 removing or transplanting a part from the decedent.

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

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

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

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

19 (g) Death record review.--

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

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

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

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

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

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

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

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

1 fund.

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

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

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

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

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

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

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

27 Only an affirmative response of an individual shall be noted on  
28 the front of the driver's license or identification card and  
29 shall clearly indicate the individual's intent to donate his  
30 organs or tissue. A notation on an individual's driver's license

1 or identification card that he intends to donate his organs or  
2 tissue is deemed sufficient to satisfy all requirements for  
3 consent to organ or tissue donation. The department shall record  
4 and store all donor designations in the Donate Life PA Registry.  
5 The recorded and stored designation is sufficient to satisfy all  
6 requirements for consent to organ and tissue donation. The  
7 recorded and stored designation is not a public record subject  
8 to disclosure as defined in section 102 of the act of February  
9 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

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

1 § 8621. The Governor Robert P. Casey Memorial Organ and Tissue  
2 Donation Awareness Trust Fund contributions.

3 (a) Driver's license.--

4 (1) Beginning as soon as practicable, but no later than  
5 [January 1, 1995] 10 months after the effective date of this  
6 paragraph, the Department of Transportation shall provide an  
7 applicant for an original or renewal driver's license or  
8 identification card the opportunity to make a contribution of  
9 [\$1] \$3 to the fund. The contribution shall be added to the  
10 regular fee for an original or renewal driver's license or  
11 identification card. One contribution may be made for each  
12 issuance or renewal of a license or identification card.  
13 Contributions shall be used exclusively for the purposes set  
14 out in section 8622 (relating to The Governor Robert P. Casey  
15 Memorial Organ and Tissue Donation Awareness Trust Fund).

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

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

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

29 (1) Beginning as soon as practicable, but no later than  
30 10 months after the effective date of this paragraph, the

1 Department of Transportation shall provide an applicant for a  
2 renewal vehicle registration the opportunity to make a  
3 contribution of [\$1] \$3 to The Governor Robert P. Casey  
4 Memorial Organ and Tissue Donation Awareness Trust Fund. The  
5 contribution shall be added to the regular fee for a renewal  
6 of a vehicle registration. One contribution may be made for  
7 each renewal vehicle registration. Contributions shall be  
8 used exclusively for the purposes described in section 8622.

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

14 (3) The Governor Robert P. Casey Memorial Organ and  
15 Tissue Donation Awareness Trust Fund shall reimburse the  
16 [department for the initial costs incurred in the development  
17 and implementation of the contribution program under this  
18 subsection] Department of Transportation for the costs  
19 incurred in the initial development and implementation of the  
20 contribution program, as well as any additional costs that  
21 may arise from changes that are agreed to by both the  
22 Department of Transportation and the advisory committee.

23 (4) The General Fund shall reimburse the Department of  
24 Transportation for the actual annual operating costs of the  
25 program for vehicle registrations as described in this  
26 subsection. [subject to the following limits: For the first  
27 fiscal year during which this subsection is effective, the  
28 General Fund shall reimburse the Department of Transportation  
29 for the actual operating costs of the program in this  
30 subsection up to a maximum of \$100,000. For each fiscal year

1 thereafter, the General Fund shall reimburse the Department  
2 of Transportation for the actual operating costs of the  
3 program in this subsection in an amount not to exceed the  
4 prior year's actual operating costs on a full fiscal year  
5 basis plus 3%. The amounts approved by the Governor as  
6 necessary are hereby appropriated from the General Fund for  
7 this purpose.]

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

15 § 8622. The Governor Robert P. Casey Memorial Organ and Tissue  
16 Donation Awareness Trust Fund.

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

27 (b) Appropriation.--All moneys deposited in the fund and  
28 interest which accrues from those funds are appropriated on a  
29 continuing basis subject to the approval of the Governor to  
30 compensate the Department of Transportation, the Department of

1 Health and the Department of Revenue for actual costs related to  
2 implementation of this chapter, including all costs of the Organ  
3 and Tissue Donation Advisory Committee created in subsection  
4 [(c)] (c.1). Any remaining funds are appropriated subject to the  
5 approval of the Governor for the following purposes:

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

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

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

1 and the laws regarding organ donation, public information and  
2 public education about contributing to the fund when  
3 obtaining or renewing a driver's license and when completing  
4 a State individual income tax return form.

5 (4) [25%] Twenty-five percent may be expended by the  
6 Department of Education for the implementation of organ  
7 donation awareness programs in the secondary schools in this  
8 Commonwealth.

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

11 (1) Two representatives of organ procurement  
12 organizations.

13 (2) Two representatives of tissue procurement providers.

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

16 (4) Three representatives of acute care hospitals.

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

18 (6) One representative of eye banks.

19 All members shall be appointed by the Governor. Appointments  
20 shall be made in a manner that provides representation of the  
21 northwest, north central, northeast, southwest, south central  
22 and southeast regions of this Commonwealth. Members shall serve  
23 five-year terms. The Governor may reappoint advisory committee  
24 members for successive terms. Members of the advisory committee  
25 shall remain in office until a successor is appointed and  
26 qualified. If vacancies occur prior to completion of a term, the  
27 Governor shall appoint another member in accordance with this  
28 subsection to fill the unexpired term. The advisory committee  
29 shall meet at least biannually to review progress in the area of  
30 organ and tissue donation in this Commonwealth, recommend

1 education and awareness training programs, recommend priorities  
2 in expenditures from the fund and advise the Secretary of Health  
3 on matters relating to administration of the fund. The advisory  
4 committee shall recommend legislation as it deems necessary to  
5 fulfill the purposes of this chapter. The advisory committee  
6 shall submit a report concerning its activities and progress to  
7 the General Assembly within 30 days prior to the expiration of  
8 each legislative session. The Department of Health shall  
9 reimburse members of the advisory committee for all necessary  
10 and reasonable travel and other expenses incurred in the  
11 performance of their duties under this section.]

12 (c.1) Advisory committee.--

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

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

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

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

18 (iv) One representative from each designated organ  
19 procurement organization.

20 (v) Two representatives of tissue procurement  
21 providers.

22 (vi) Six members representative of:

23 (A) organ, tissue and eye recipients;

24 (B) families of recipients;

25 (C) donors; and

26 (D) families of donors.

27 (vii) Two representatives of acute care hospitals  
28 which are:

29 (A) licensed in this Commonwealth; and

30 (B) members of the Statewide association

1 representing the interests of hospitals throughout  
2 this Commonwealth.

3 (viii) One representative of eye banks.

4 (ix) One representative of community health  
5 organizations.

6 (x) One elected county coroner of this Commonwealth.

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

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

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

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

17 (iii) The Governor may reappoint an advisory  
18 committee member for successive terms.

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

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

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

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

29 (ii) Recommend education and awareness training  
30 programs.

1           (iii) Recommend priorities in expenditures from the  
2           fund.

3           (iv) Advise the Secretary of Health on matters  
4           relating to administration of the fund.

5           (v) Recommend legislation as necessary to fulfill  
6           the purposes of this chapter.

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

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

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

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

25           (f) Lead Commonwealth agency.--

26           (1) The Department of Health shall be the lead  
27           Commonwealth agency responsible for promoting organ and  
28           tissue donation in this Commonwealth and shall coordinate  
29           activities among other collaborating Commonwealth agencies.

30           (2) Within the Department of Health there is established

1 a full-time position of Organ and Tissue Donation Awareness  
2 Program Coordinator.

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

7 (ii) The program coordinator has the following  
8 powers and duties:

9 (A) Assist in administration of the fund.

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

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

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

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

1 beliefs or nonsuitability for organ and tissue  
2 donation.

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

5 § 8623. Confidentiality requirement.

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

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

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

18 (1) the recipient; and

19 (2) if the donor is alive, the donor, or if the donor is  
20 deceased, the next of kin of the donor.

21 § 8624. Prohibited activities.

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

30 (b) Unfair acts.--No organ procurement organization or

1 tissue procurement provider may disparage the services or  
2 business of other procurement providers by false or misleading  
3 representations of fact, engage in any other fraudulent conduct  
4 to influence the selection by a hospital of a qualified tissue  
5 procurement provider nor engage in unlawful competition or  
6 discrimination. This subsection is not intended to restrict or  
7 preclude any organ procurement organization or tissue  
8 procurement provider from marketing or promoting its services in  
9 the normal course of business.]

10 (c) Procurement organizations.--

11 (1) A procurement organization shall not do any of the  
12 following:

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

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

18 (iii) Engage in unlawful competition or  
19 discrimination.

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

23 (d) Funeral establishments.--

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

26 (i) remove body parts from a corpse;

27 (ii) permit others to remove body parts from a  
28 corpse; or

29 (iii) use funeral establishment facilities to remove  
30 body parts from a corpse.

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

2           (i) Removal is permissible if it is:

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

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

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

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

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

22   § 8625. Promotion of organ and tissue donation; Donate Life PA  
23           Registry established.

24           (a) Promotion.--The Department of Transportation shall  
25           ensure access by residents of this Commonwealth to an Internet-  
26           based interface which promotes organ and tissue donation and  
27           enables residents 18 years of age or older who hold a  
28           Pennsylvania driver's license or identification card to register  
29           as donors and have that designation immediately integrated into  
30           the current database maintained by the Department of

1 Transportation.

2 (b) Paper form.--

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

9 (2) Registration shall be provided at no cost to the  
10 registrant.

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

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

18 (e) Effect.--

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

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

22 (ii) on the individual's physical driver's license  
23 or identification card;

24 (iii) on an advance health care directive;

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

27 (v) submitted under any other statutory provision.

28 (2) Registration by a donor shall constitute sufficient  
29 authorization to donate organs and tissues for  
30 transplantation and therapy. Authorization of another person

1 shall not be necessary to effectuate the anatomical gift.

2 (f) Technology.--An information technology system adopted by  
3 the Department of Transportation after the effective date of  
4 this section shall continue to accommodate the inclusion of  
5 donor designation information into the database and the ongoing  
6 operation of the Donate Life PA Registry.

7 § 8626. Facilitation of anatomical gift from decedent whose  
8 death is under investigation.

9 (a) Coordination.--

10 (1) Upon identification of a prospective donor, an organ  
11 procurement organization shall, within a reasonable time,  
12 notify the coroner or medical examiner of the county in which  
13 the prospective donor is located.

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

18 (i) Notify the coroner or medical examiner of the  
19 county in which the cause precipitating the prospective  
20 donor's death is believed to have occurred, who shall  
21 then cause the district attorney of the county to be  
22 notified in accordance with internal county protocols.

23 (ii) Notify the applicable organ procurement  
24 organization of any change in jurisdiction.

25 (3) Organ procurement organizations shall in all cases  
26 cooperate with the coroner or medical examiner in order to  
27 facilitate the preservation and collection of forensic  
28 evidence. Organ procurement organizations shall not move or  
29 cause to be moved a prospective donor without authorization  
30 of the coroner or medical examiner having jurisdiction. Upon

1 request, an organ procurement organization shall provide or  
2 assist the coroner or medical examiner in obtaining:

3 (i) Medical records.

4 (ii) Photographs.

5 (iii) Specimens, including blood and tissue.

6 (iv) Laboratory and diagnostic test results.

7 (v) Any other available information.

8 (4) If applicable, the coroner or medical examiner shall  
9 timely notify the organ procurement organization of any  
10 additional requests from the coroner, medical examiner or  
11 district attorney of the county where the cause of death is  
12 believed to have occurred, including scheduling the recovery  
13 procedure to permit their attendance where the scheduling can  
14 be done in a time frame consistent with facilitating  
15 anatomical donation. Attendance may be in person or, if in-  
16 person attendance is not possible in a time frame consistent  
17 with facilitating anatomical donation and, if available, by  
18 electronic communication which includes a live visual  
19 depiction of the recovery procedure.

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

26 (b) Facilitation of donation.--Where a coroner or medical  
27 examiner has jurisdiction in the case of a prospective organ  
28 donor, the following shall apply:

29 (1) If the coroner or medical examiner is considering  
30 denying recovery of one or more organs intended for

1 transplant or therapy, the coroner or medical examiner shall  
2 notify the applicable organ procurement organization.

3 (2) If requested by the organ procurement organization,  
4 the coroner or medical examiner or designee shall attend the  
5 organ recovery procedure and the following shall apply:

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

10 (ii) The coroner or medical examiner or designee may  
11 only deny removal of the organ if, in his judgment, the  
12 removal of the organ may interfere with or impede the  
13 investigation of the cause, manner and mechanism of  
14 death. For the denial to be valid, the coroner or medical  
15 examiner or designee must be in attendance at the  
16 recovery procedure. Attendance must be in person or, if  
17 in-person attendance is not possible in a time frame  
18 consistent with facilitating donation and, if available,  
19 by electronic communication which includes a live visual  
20 depiction of the recovery procedure.

21 (iii) If the coroner or medical examiner or  
22 designee denies removal of the organ, the coroner or  
23 medical examiner shall explain, in writing, the reason  
24 for determining that the removal of the organ may  
25 interfere with or impede the investigation of the cause,  
26 manner and mechanism of death.

27 (iv) No removal of the organ shall occur if the  
28 coroner or medical examiner or designee has denied  
29 recovery in accordance with subparagraph (ii) and  
30 complied with the procedure in subparagraph (iii).

1           (v) The applicable organ procurement organization  
2           shall reimburse the coroner or medical examiner for the  
3           reasonable costs of attendance at the recovery procedure.

4           (c) Report.--If requested by the coroner, medical examiner  
5           or district attorney, the physician or technician recovering an  
6           organ under this section shall provide a report and, if  
7           necessary, be available to provide testimony in any proceeding,  
8           detailing the condition of the organ and the recovery procedure.  
9           Reasonable costs associated with a physician or technician's  
10           providing testimony under this section shall be paid by the  
11           designated organ procurement organization.

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

15           § 8627. Collaboration among departments and organ procurement  
16           organizations.

17           (a) Mandatory.--

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

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

27           (b) Discretionary.--Other Commonwealth agencies may  
28           collaborate with the designated organ procurement organizations  
29           in applying for Federal or private grants recommended by the  
30           organ procurement organizations.

1 § 8628. Information relative to organ and tissue donation.

2 (a) Curriculum.--The Department of Education, in  
3 consultation with the designated organ procurement  
4 organizations, shall review the Commonwealth's educational  
5 curriculum framework to ensure that information about organ  
6 donation is included in the standards for students in grades 9  
7 through 12 beginning with the 2016-2017 school year.

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

9 (1) Emphasize the benefits of organ and tissue donation  
10 to the health and well-being of society generally and to  
11 individuals whose lives are saved by organ and tissue  
12 donations so that students will be motivated to make an  
13 affirmative decision to register as a donor when they become  
14 adults.

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

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

20 (c) Materials.--The Department of Education shall make  
21 related instructional materials available to public and  
22 nonpublic schools educating students in grades nine through  
23 twelve. The General Assembly shall encourage nonpublic schools  
24 to use the instructional materials. Nothing in this subsection  
25 shall be construed to require nonpublic schools to use the  
26 instructional materials.

27 (d) Institutions of higher education.--

28 (1) Beginning with the 2016-2017 school year, each  
29 public institution of higher education in this Commonwealth  
30 shall provide, in collaboration with the designated organ

1 procurement organizations, information to its students,  
2 either through student health services or as part of the  
3 curriculum, which:

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

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

10 (2) Beginning with the 2017-2018 school year, each  
11 private institution of higher education in this Commonwealth  
12 is encouraged to provide, in collaboration with the  
13 designated organ procurement organizations, information to  
14 its students, either through student health services or as  
15 part of the curriculum, which:

16 (i) emphasizes the benefits to the health and well-  
17 being of society and the lives that are saved through  
18 organ and tissue donations; and

19 (ii) instills knowledge which will enable  
20 individuals to make informed decisions about registering  
21 to become an organ and tissue donor.

22 § 8629. Requirements for physician and nurse training relative  
23 to organ and tissue donation and recovery.

24 (a) Regulations.--The State Board of Medicine, the State  
25 Board of Osteopathic Medicine and the State Board of Nursing  
26 shall, in collaboration with the designated organ procurement  
27 organizations, promulgate regulations stating the following  
28 requirements for physician and professional nurse training:

29 (1) The curriculum in each college of medicine or  
30 osteopathy or educational program of professional nursing in

1 this Commonwealth shall include two hours of instruction in  
2 organ and tissue donation and recovery designed to address  
3 clinical aspects of the donation and recovery process.

4 (2) Successful completion of organ and tissue donation  
5 and recovery instruction under paragraph (1) shall be  
6 required as a condition of receiving the degree of doctor of  
7 medicine or doctor of osteopathy or a degree in professional  
8 nursing, in this Commonwealth.

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

13 (b) Statement of policy.--The State Board of Medicine, the  
14 State Board of Osteopathic Medicine and the State Board of  
15 Nursing shall issue a statement of policy encouraging physicians  
16 and nurses who, prior to the effective date of this section,  
17 were not required to receive and did not receive instruction in  
18 organ and tissue donation and recovery as part of a medical,  
19 osteopathic or nursing school curriculum to complete the  
20 training within three years after the effective date of this  
21 section. The training may be completed through an online,  
22 credit-based course developed by or for the designated organ  
23 procurement organizations, in collaboration with representative  
24 professional medical, osteopathic and nursing organizations in  
25 this Commonwealth.

26 § 8630. Uniformity of application and construction.

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

1 § 8631. Relation to Electronic Signatures in Global and  
2 National Commerce Act.

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

10 Section 8. Subchapter C of Chapter 86 of Title 20 is  
11 repealed:

12 [SUBCHAPTER C

13 CORNEAL TRANSPLANTS

14 Sec.

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

17 8642. Limitation of liability.

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

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

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

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

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

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

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

11 § 8642. Limitation of liability.

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

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

19           (1) The amendment of 20 Pa.C.S. § 8621 shall take effect  
20 immediately.

21           (2) This section shall take effect immediately.

22           (3) The remainder of this act shall take effect in 60  
23 days.