

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4940**

A bill to amend 1978 PA 368, entitled "Public health code," by amending the heading of part 101 and sections 10101, 10102, 10103, 10104, 10105, 10106, 10107, 10108, 10109, 10204, and 20165 (MCL 333.10101, 333.10102, 333.10103, 333.10104, 333.10105, 333.10106, 333.10107, 333.10108, 333.10109, 333.10204, and 333.20165), section 10102 as amended by 2003 PA 62, section 10104 as amended by 2005 PA 140, section 10108 as amended by 2006 PA 301, section 10204 as amended by 1999 PA 60, and section 20165 as amended by 1998 PA 108, and by adding sections 10110, 10111, 10112, 10113, 10114, 10115, 10116, 10117, 10118, 10119, 10120, 10121, 10122, and 10123; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 101

REVISED UNIFORM ANATOMICAL GIFT LAW

Sec. 10101. ~~As used in this part:~~

~~(a) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or physical parts thereof.~~

~~(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.~~

~~(c) "Donor" means an individual who makes a gift of all or a physical part of his or her body.~~

~~(d) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state. It includes a hospital operated by the United States government, a state or a subdivision thereof, although not required to be licensed under state laws.~~

~~(e) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.~~

~~(f) "Physical part" means organs, tissues, eyes, bones, arteries, blood, other fluids, and any other portions of a human body.~~

~~(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.~~

~~(h) "State medical school" means the university of Michigan school of medicine, the Michigan state university college of human medicine, the Michigan state university college of osteopathic medicine, or the Wayne state university school of~~

1 medicine.—THIS PART SHALL BE KNOWN AND MAY BE CITED AS THE
2 "REVISED UNIFORM ANATOMICAL GIFT LAW".

3 Sec. 10102. ~~(1) An individual of sound mind and 18 years of~~
4 ~~age or more may make a gift of all or a physical part of his or~~
5 ~~her body for a purpose specified in section 10103, effective upon~~
6 ~~that individual's death.~~

7 ~~—— (2) Upon or immediately before the death of an individual~~
8 ~~who has not made a gift of all or a physical part of his or her~~
9 ~~body under this part, an individual having the following~~
10 ~~relationship to that individual may, in the following order of~~
11 ~~priority and subject to subsection (3), make a gift of all or a~~
12 ~~physical part of the deceased individual's body for a purpose~~
13 ~~specified in section 10103:~~

14 ~~—— (a) A patient advocate designated under section 5506 of the~~
15 ~~estates and protected individuals code, 1998 PA 386, MCL~~
16 ~~700.5506, who is authorized to make such a gift.~~

17 ~~—— (b) The spouse.~~

18 ~~—— (c) An adult son or daughter.~~

19 ~~—— (d) Either parent.~~

20 ~~—— (e) An adult brother or sister.~~

21 ~~—— (f) A guardian of the person of the decedent at the time of~~
22 ~~the death.~~

23 ~~—— (g) An individual other than an individual described in~~
24 ~~subdivisions (a) to (f), who is authorized or under obligation to~~
25 ~~dispose of the body.~~

26 ~~—— (3) An individual described in subsection (2) may make a~~
27 ~~gift of all or a physical part of a decedent's body in accordance~~

1 ~~with this part if each of the following circumstances exists:~~

2 ~~—— (a) An individual having a higher priority under subsection~~
3 ~~(2) to make the gift is not available or is not capable of making~~
4 ~~the decision at the time of the decedent's death.~~

5 ~~—— (b) The individual making the gift has not received actual~~
6 ~~notice that the decedent had expressed an unwillingness to make~~
7 ~~the gift.~~

8 ~~—— (c) The individual making the gift has not received actual~~
9 ~~notice that an individual having equal or greater priority under~~
10 ~~subsection (2) opposes the making of the gift.~~

11 ~~—— (4) A gift made by an individual described in subsection (2)~~
12 ~~is not revocable by an individual having a lower priority under~~
13 ~~subsection (2).~~

14 ~~—— (5) If the donee has actual notice that the decedent had~~
15 ~~expressed an unwillingness to make the gift, or actual notice~~
16 ~~that an individual having a higher priority under subsection (2)~~
17 ~~than that of the individual making the gift under subsection (2)~~
18 ~~opposes the making of the gift, the donee shall not accept the~~
19 ~~gift.~~

20 ~~—— (6) A gift of all or a physical part of a body under this~~
21 ~~section authorizes any examination necessary to assure medical~~
22 ~~acceptability of the gift for the purposes intended.~~

23 ~~—— (7) The rights of the donee created by the gift are~~
24 ~~paramount to the rights of others except as provided by section~~

25 ~~10108(4).~~ **AS USED IN THIS PART:**

26 **(A) "ADULT" MEANS AN INDIVIDUAL WHO IS AT LEAST 18 YEARS OF**
27 **AGE.**

1 (B) "AGENT" MEANS AN INDIVIDUAL WHO MEETS 1 OR MORE OF THE
2 FOLLOWING REQUIREMENTS:

3 (i) IS AUTHORIZED TO MAKE HEALTH CARE DECISIONS ON THE
4 PRINCIPAL'S BEHALF BY A POWER OF ATTORNEY FOR HEALTH CARE.

5 (ii) IS EXPRESSLY AUTHORIZED TO MAKE AN ANATOMICAL GIFT ON
6 THE PRINCIPAL'S BEHALF BY ANY OTHER RECORD SIGNED BY THE
7 PRINCIPAL.

8 (C) "ANATOMICAL GIFT" MEANS A DONATION OF ALL OR PART OF A
9 HUMAN BODY TO TAKE EFFECT AFTER THE DONOR'S DEATH FOR THE PURPOSE
10 OF TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION.

11 (D) "BODY PART" MEANS AN ORGAN, EYE, OR TISSUE OF A HUMAN
12 BEING. THE TERM DOES NOT INCLUDE THE WHOLE BODY.

13 (E) "DECEDENT" MEANS A DECEASED INDIVIDUAL WHOSE BODY OR
14 BODY PART IS OR MAY BE THE SOURCE OF AN ANATOMICAL GIFT. THE TERM
15 INCLUDES A STILLBORN INFANT AND, SUBJECT TO THIS SUBDIVISION AND
16 RESTRICTIONS IMPOSED BY LAW OTHER THAN THIS PART, A FETUS. THE
17 TERM DOES NOT INCLUDE A BLASTOCYST, EMBRYO, OR FETUS THAT IS THE
18 SUBJECT OF AN ABORTION. AS USED IN THIS SUBDIVISION, "ABORTION"
19 MEANS THAT TERM AS DEFINED IN SECTION 17015.

20 (F) "DISINTERESTED WITNESS" MEANS A WITNESS WHO IS NOT A
21 SPOUSE, CHILD, PARENT, SIBLING, GRANDCHILD, GRANDPARENT, OR
22 GUARDIAN OF OR OTHER ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN
23 FOR THE INDIVIDUAL WHO MAKES, AMENDS, REVOKES, OR REFUSES TO MAKE
24 AN ANATOMICAL GIFT. THE TERM DOES NOT INCLUDE A PERSON TO WHICH
25 AN ANATOMICAL GIFT COULD PASS UNDER SECTION 10111.

26 (G) "DOCUMENT OF GIFT" MEANS A DONOR CARD OR OTHER RECORD
27 USED TO MAKE AN ANATOMICAL GIFT. THE TERM INCLUDES A STATEMENT OR

1 SYMBOL ON A DRIVER LICENSE, IDENTIFICATION CARD, OR DONOR
2 REGISTRY.

3 (H) "DONOR" MEANS AN INDIVIDUAL WHOSE BODY OR BODY PART IS
4 THE SUBJECT OF AN ANATOMICAL GIFT.

5 (I) "DONOR REGISTRY" MEANS A DATABASE THAT CONTAINS RECORDS
6 OF ANATOMICAL GIFTS AND AMENDMENTS TO OR REVOCATIONS OF
7 ANATOMICAL GIFTS AS PROVIDED FOR IN SECTION 10120.

8 (J) "DRIVER LICENSE" MEANS AN OPERATOR'S OR CHAUFFEUR'S
9 LICENSE OR PERMIT ISSUED TO AN INDIVIDUAL BY THE SECRETARY OF
10 STATE UNDER CHAPTER III OF THE MICHIGAN VEHICLE CODE, 1949 PA
11 300, MCL 257.301 TO 257.329, FOR THAT INDIVIDUAL TO OPERATE A
12 VEHICLE, WHETHER OR NOT CONDITIONS ARE ATTACHED TO THE LICENSE OR
13 PERMIT.

14 (K) "EYE" MEANS A HUMAN EYE OR ANY PORTION OF A HUMAN EYE.

15 (L) "EYE BANK" MEANS A PERSON THAT IS LICENSED, ACCREDITED,
16 OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN THE
17 RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR
18 DISTRIBUTION OF HUMAN EYES OR PORTIONS OF HUMAN EYES.

19 (M) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE
20 DECISIONS REGARDING THE SUPPORT, CARE, EDUCATION, HEALTH, OR
21 WELFARE OF AN INDIVIDUAL. THE TERM DOES NOT INCLUDE A GUARDIAN AD
22 LITEM.

23 (N) "HOSPITAL" MEANS A FACILITY LICENSED AS A HOSPITAL UNDER
24 THE LAW OF ANY STATE OR A FACILITY OPERATED AS A HOSPITAL BY THE
25 UNITED STATES, A STATE, OR A SUBDIVISION OF A STATE.

26 (O) "IDENTIFICATION CARD" MEANS AN OFFICIAL STATE PERSONAL
27 IDENTIFICATION CARD ISSUED BY THE SECRETARY OF STATE UNDER 1972

1 PA 222, MCL 28.291 TO 28.300.

2 (P) "KNOW" MEANS TO HAVE ACTUAL KNOWLEDGE.

3 (Q) "MINOR" MEANS AN INDIVIDUAL WHO IS UNDER 18 YEARS OF
4 AGE.

5 (R) "ORGAN" MEANS A HUMAN KIDNEY, LIVER, HEART, LUNG,
6 PANCREAS, OR INTESTINE OR MULTIVISCERAL ORGANS WHEN TRANSPLANTED
7 AT THE SAME TIME AS AN INTESTINE.

8 (S) "ORGAN PROCUREMENT ORGANIZATION" MEANS A PERSON
9 CERTIFIED OR RECERTIFIED BY THE SECRETARY OF THE UNITED STATES
10 DEPARTMENT OF HEALTH AND HUMAN SERVICES AS A QUALIFIED ORGAN
11 PROCUREMENT ORGANIZATION UNDER 42 USC 273(B).

12 (T) "PARENT" MEANS A PARENT WHOSE PARENTAL RIGHTS HAVE NOT
13 BEEN TERMINATED.

14 (U) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS
15 TRUST, ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,
16 ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT OR
17 GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY OR ANY OTHER
18 LEGAL OR COMMERCIAL ENTITY.

19 (V) "PHYSICIAN" MEANS AN INDIVIDUAL AUTHORIZED TO PRACTICE
20 MEDICINE OR OSTEOPATHIC MEDICINE AND SURGERY UNDER THE LAW OF ANY
21 STATE.

22 (W) "PROCUREMENT ORGANIZATION" MEANS AN EYE BANK, ORGAN
23 PROCUREMENT ORGANIZATION, OR TISSUE BANK.

24 (X) "PROSPECTIVE DONOR" MEANS AN INDIVIDUAL WHO IS DEAD OR
25 NEAR DEATH AND HAS BEEN DETERMINED BY A PROCUREMENT ORGANIZATION
26 TO HAVE A BODY PART THAT COULD BE MEDICALLY SUITABLE FOR
27 TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION. THE TERM DOES

1 NOT INCLUDE AN INDIVIDUAL WHO HAS MADE A REFUSAL.

2 (Y) "REASONABLY AVAILABLE" MEANS ABLE TO BE CONTACTED BY A
3 PROCUREMENT ORGANIZATION WITHOUT UNDUE EFFORT AND WILLING AND
4 ABLE TO ACT IN A TIMELY MANNER CONSISTENT WITH EXISTING MEDICAL
5 CRITERIA NECESSARY FOR THE MAKING OF AN ANATOMICAL GIFT.

6 (Z) "RECIPIENT" MEANS AN INDIVIDUAL INTO WHOSE BODY A
7 DECEDENT'S BODY PART HAS BEEN OR IS INTENDED TO BE TRANSPLANTED.

8 (AA) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
9 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER
10 MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

11 (BB) "REFUSAL" MEANS A RECORD CREATED UNDER SECTION 10107
12 THAT EXPRESSLY REFUSES TO MAKE AN ANATOMICAL GIFT OF AN
13 INDIVIDUAL'S BODY OR BODY PART.

14 (CC) "SIGN" MEANS THAT, WITH THE PRESENT INTENT TO
15 AUTHENTICATE OR ADOPT A RECORD, AN INDIVIDUAL DOES EITHER OF THE
16 FOLLOWING:

17 (i) EXECUTES OR ADOPTS A TANGIBLE SYMBOL.

18 (ii) ATTACHES TO OR LOGICALLY ASSOCIATES WITH THE RECORD AN
19 ELECTRONIC SYMBOL, SOUND, OR PROCESS.

20 (DD) "STATE" MEANS A STATE OF THE UNITED STATES, THE
21 DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN
22 ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE
23 JURISDICTION OF THE UNITED STATES.

24 (EE) "TECHNICIAN" MEANS AN INDIVIDUAL DETERMINED TO BE
25 QUALIFIED TO REMOVE OR PROCESS BODY PARTS BY AN APPROPRIATE
26 ORGANIZATION THAT IS LICENSED, ACCREDITED, OR REGULATED UNDER
27 FEDERAL OR STATE LAW. THE TERM INCLUDES AN ENUCLEATOR.

1 (FF) "TISSUE" MEANS A PORTION OF THE HUMAN BODY OTHER THAN
2 AN ORGAN OR AN EYE. THE TERM DOES NOT INCLUDE BLOOD UNLESS THE
3 BLOOD IS DONATED FOR THE PURPOSE OF RESEARCH OR EDUCATION.

4 (GG) "TISSUE BANK" MEANS A PERSON THAT IS LICENSED,
5 ACCREDITED, OR REGULATED UNDER FEDERAL OR STATE LAW TO ENGAGE IN
6 THE RECOVERY, SCREENING, TESTING, PROCESSING, STORAGE, OR
7 DISTRIBUTION OF TISSUE.

8 (HH) "TRANSPLANT HOSPITAL" MEANS A HOSPITAL THAT FURNISHES
9 ORGAN TRANSPLANTS AND OTHER MEDICAL AND SURGICAL SPECIALTY
10 SERVICES REQUIRED FOR THE CARE OF TRANSPLANT PATIENTS.

11 Sec. 10103. ~~The following persons may become donees of gifts
12 of bodies or physical parts thereof for the purposes stated:~~

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

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

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

22 ~~—— (d) Any specified individual for therapy or transplantation
23 needed by that individual.~~

24 ~~—— (e) Any approved or accredited school of optometry, nursing,
25 or veterinary medicine.~~ THIS PART APPLIES TO AN ANATOMICAL GIFT
26 OR AMENDMENT TO, REVOCATION OF, OR REFUSAL TO MAKE AN ANATOMICAL
27 GIFT, WHENEVER MADE.

1 Sec. 10104. ~~(1) A gift of all or a physical part of the~~
2 ~~donor's body under section 10102(1) may be made by will. The gift~~
3 ~~becomes effective upon the death of the testator without waiting~~
4 ~~for probate. If the will is not probated, or if the will is~~
5 ~~declared invalid for testamentary purposes, the gift, to the~~
6 ~~extent that the gift has been acted upon in good faith, is~~
7 ~~nevertheless valid and effective.~~

8 ~~—— (2) A gift of all or a physical part of the donor's body~~
9 ~~under section 10102(1) may also be made by document of gift other~~
10 ~~than a will. A gift made by a document of gift described in this~~
11 ~~subsection becomes effective upon the death of the donor. Subject~~
12 ~~to subsections (3) and (4), a document of gift other than a will~~
13 ~~may be 1 or more of the following:~~

14 ~~—— (a) A personal identification card issued to the donor by~~
15 ~~the secretary of state under 1972 PA 222, MCL 28.291 to 28.300,~~
16 ~~that contains a statement that the holder of the personal~~
17 ~~identification card is an organ and tissue donor under this part,~~
18 ~~along with the signature of the holder and the signature of at~~
19 ~~least 1 witness to the holder's signature, as described in~~
20 ~~section 2 of 1972 PA 222, MCL 28.292, or, beginning January 1,~~
21 ~~2007, a heart insignia.~~

22 ~~—— (b) A motor vehicle operator's or chauffeur's license issued~~
23 ~~to the donor by the secretary of state under the Michigan vehicle~~
24 ~~code, 1949 PA 300, MCL 257.1 to 257.923, that contains a~~
25 ~~statement that the licensee is an organ and tissue donor under~~
26 ~~this part, along with the signature of the licensee and the~~
27 ~~signature of at least 1 witness to the licensee's signature, as~~

1 ~~described in section 310 of the Michigan vehicle code, 1949 PA~~
2 ~~300, MCL 257.310, or, beginning January 1, 2007, a heart~~
3 ~~insignia.~~

4 ~~—— (c) A document of gift that conforms substantially to the~~
5 ~~following form:~~

6 ~~Uniform Donor Card~~

7 ~~of~~
.....
.....

8 ~~Print or type name of donor~~

9 ~~In the hope that I may help others, I hereby make this anatomical~~
~~gift if medically acceptable, to take effect upon my death. The~~
~~words and marks below indicate my desires.~~

10 ~~I give: (a) any needed organs or physical parts~~

11 ~~(b) only the following organs or physical~~
12 ~~parts~~

13 ~~Specify the organ(s) or physical part(s)~~

14 ~~For the purposes of transplantation, therapy, medical research or~~
~~education;~~

15 ~~(c) my body for anatomical study if needed.~~

16 ~~Limitations or special wishes, if any: _____~~

17 ~~Signed by the donor and at least 1 witness, in the presence of~~
~~each other:~~

18 _____
19 ~~Signature of donor~~ ~~Date of birth of donor~~

20 _____
21 ~~Date signed~~ ~~City and state~~

22 _____
23 ~~Witness~~ ~~Witness~~

24 ~~—— (3) If a donor does not specify a gift of his or her entire~~
25 ~~body in the statement described in subsection (2) (a) or (b) on~~
26 ~~the individual's personal identification card or motor vehicle~~

1 ~~operator's or chauffeur's license, the gift is limited to~~
2 ~~physical parts of the donor's body and does not include the~~
3 ~~donor's entire body.~~

4 ~~—— (4) A gift under section 10102 may be made to a specified or~~
5 ~~unspecified donee. If the donee is not specified, the attending~~
6 ~~physician may accept the gift as donee upon or following the~~
7 ~~donor's death. If the gift is made to a specified donee who is~~
8 ~~not available at the time and place of death, the attending~~
9 ~~physician may, upon or following the donor's death, and in the~~
10 ~~absence of any expressed indication that the donor desired~~
11 ~~otherwise, accept the gift as donee. An attending physician who~~
12 ~~becomes a donee under this subsection shall not participate in~~
13 ~~the procedures for removing or transplanting a physical part.~~

14 ~~—— (5) Notwithstanding section 10108(4), the donor may~~
15 ~~designate in his or her will or other document of gift described~~
16 ~~in subsection (2) the physician who is to carry out the~~
17 ~~procedures necessary to effectuate the gift. In the absence of a~~
18 ~~designation under this subsection or if the designee is not~~
19 ~~available, the donee or other person authorized to accept the~~
20 ~~gift may employ or authorize another physician for the purpose of~~
21 ~~effectuating the gift.~~

22 ~~—— (6) A donor who is unable to sign a document of gift may~~
23 ~~direct another individual to sign the document of gift on his or~~
24 ~~her behalf if the signature of the other individual is made in~~
25 ~~the donor's presence and in the presence of at least 1 witness.~~
26 ~~The witness shall also sign the document of gift in the donor's~~
27 ~~presence.~~

1 ~~—— (7) A gift of all or a physical part of a donor's body made~~
2 ~~by will as authorized by subsection (1) or by a document of gift~~
3 ~~other than a will as authorized by subsection (2) is not~~
4 ~~revocable after the death of the donor regardless of the~~
5 ~~expressed desires of the deceased donor's next of kin who may~~
6 ~~oppose the donor's organ, tissue, or eye donation.~~

7 ~~—— (8) A gift by an individual designated in section 10102(2)~~
8 ~~shall be made by a document signed by the individual or made by~~
9 ~~the individual's telegraphic, electronic, recorded telephonic, or~~
10 ~~other recorded message.~~

11 ~~—— (9) A document of gift executed in another state or foreign~~
12 ~~country and in accord with the laws of that state or country is~~
13 ~~valid as a document of gift in this state, even if the document~~
14 ~~does not conform substantially to the form set forth in~~
15 ~~subsection (2) (c).~~ **SUBJECT TO SECTION 10108, AN ANATOMICAL GIFT**
16 **OF A DONOR'S BODY OR BODY PART MAY BE MADE DURING THE LIFE OF THE**
17 **DONOR FOR THE PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH, OR**
18 **EDUCATION IN THE MANNER PROVIDED IN SECTION 10105 BY ANY OF THE**
19 **FOLLOWING:**

20 **(A) THE DONOR, IF THE DONOR IS AN ADULT OR IF THE DONOR IS A**
21 **MINOR AND MEETS 1 OR MORE OF THE FOLLOWING REQUIREMENTS:**

22 **(i) IS EMANCIPATED.**

23 **(ii) HAS BEEN ISSUED A DRIVER LICENSE OR IDENTIFICATION CARD**
24 **BECAUSE THE DONOR IS AT LEAST 16 YEARS OF AGE.**

25 **(B) AN AGENT OF THE DONOR, UNLESS THE POWER OF ATTORNEY FOR**
26 **HEALTH CARE OR OTHER RECORD PROHIBITS THE AGENT FROM MAKING AN**
27 **ANATOMICAL GIFT.**

1 (C) A PARENT OF THE DONOR, IF THE DONOR IS AN UNEMANCIPATED
2 MINOR.

3 (D) THE DONOR'S GUARDIAN.

4 Sec. 10105. (1) ~~In the absence of designation of a physician~~
5 ~~or surgeon by either the donor or the donee of an eye or a~~
6 ~~physical part thereof of a decedent, or because the physician or~~
7 ~~surgeon is not readily available to excise the eye or physical~~
8 ~~part thereof as specified in a donor card or will, a licensed~~
9 ~~physician or a person who is certified by a state medical school~~
10 ~~may perform the operation and arrange for placement of the gift~~
11 ~~in the nearest eye bank. A state medical school may certify a~~
12 ~~person as qualified to perform the operation required for the~~
13 ~~removal of an eye or a physical part thereof only after~~
14 ~~successfully completing a comprehensive course in eye enucleation~~
15 ~~organized and conducted by the state medical school or who has~~
16 ~~successfully completed a similar course offered by a nationally~~
17 ~~accredited medical school located outside this state. A DONOR MAY~~
18 **MAKE AN ANATOMICAL GIFT BY DOING ANY OF THE FOLLOWING:**

19 (A) BY AUTHORIZING A STATEMENT OR SYMBOL INDICATING THAT THE
20 DONOR HAS MADE AN ANATOMICAL GIFT TO BE IMPRINTED ON THE DONOR'S
21 DRIVER LICENSE OR IDENTIFICATION CARD.

22 (B) IN A WILL.

23 (C) DURING A TERMINAL ILLNESS OR INJURY OF THE DONOR, BY ANY
24 FORM OF COMMUNICATION ADDRESSED TO AT LEAST 2 ADULTS, AT LEAST 1
25 OF WHOM IS A DISINTERESTED WITNESS. HOWEVER, THE PHYSICIAN WHO
26 ATTENDS THE DONOR DURING THE TERMINAL ILLNESS OR INJURY SHALL NOT
27 ACT AS A RECIPIENT OF THE COMMUNICATION UNDER THIS SUBDIVISION.

1 (D) AS PROVIDED IN SUBSECTION (2).

2 (2) A DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL
3 GIFT UNDER SECTION 10104 MAY MAKE A GIFT BY A DONOR CARD OR OTHER
4 RECORD SIGNED BY THE DONOR OR OTHER PERSON MAKING THE GIFT OR BY
5 AUTHORIZING THAT A STATEMENT OR SYMBOL INDICATING THAT THE DONOR
6 HAS MADE AN ANATOMICAL GIFT BE INCLUDED ON A DONOR REGISTRY. IF
7 THE DONOR OR OTHER PERSON IS PHYSICALLY UNABLE TO SIGN A RECORD,
8 THE RECORD MAY BE SIGNED BY ANOTHER INDIVIDUAL AT THE DIRECTION
9 OF THE DONOR OR OTHER PERSON AND SHALL MEET ALL OF THE FOLLOWING
10 REQUIREMENTS:

11 (A) BE WITNESSED BY AT LEAST 2 ADULTS, AT LEAST 1 OF WHOM IS
12 A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE
13 DONOR OR THE OTHER PERSON.

14 (B) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED
15 IN SUBDIVISION (A).

16 (3) REVOCATION, SUSPENSION, EXPIRATION, OR CANCELLATION OF A
17 DRIVER LICENSE OR IDENTIFICATION CARD UPON WHICH AN ANATOMICAL
18 GIFT IS INDICATED DOES NOT INVALIDATE THE GIFT.

19 (4) AN ANATOMICAL GIFT MADE BY WILL TAKES EFFECT UPON THE
20 DONOR'S DEATH WHETHER OR NOT THE WILL IS PROBATED. INVALIDATION
21 OF THE WILL AFTER THE DONOR'S DEATH DOES NOT INVALIDATE THE GIFT.

22 ~~Sec. 10106. (1) If the gift is made by the donor to a~~
23 ~~specified donee, the will, card, or other document, or an~~
24 ~~executed copy thereof, may be delivered to the donee to expedite~~
25 ~~the appropriate procedures immediately after death. Delivery is~~
26 ~~not necessary to the validity of the gift. The will, card, or~~
27 ~~other document, or an executed copy thereof, may be deposited in~~

1 ~~any hospital, bank or storage facility, or registry office that~~
2 ~~accepts it for safekeeping or for facilitation of procedures~~
3 ~~after death. On request of any interested party upon or after the~~
4 ~~donor's death, the person in possession shall produce the~~
5 ~~document for examination.~~ SUBJECT TO SECTION 10108, A DONOR OR
6 OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER SECTION
7 10104 MAY AMEND OR REVOKE AN ANATOMICAL GIFT BY ANY OF THE
8 FOLLOWING MEANS:

9 (A) A RECORD SIGNED BY ANY OF THE FOLLOWING:

10 (i) THE DONOR.

11 (ii) THE OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT
12 UNDER SECTION 10104.

13 (iii) SUBJECT TO SUBSECTION (2), ANOTHER INDIVIDUAL ACTING AT
14 THE DIRECTION OF THE DONOR OR THE OTHER PERSON AUTHORIZED TO MAKE
15 AN ANATOMICAL GIFT UNDER SECTION 10104 IF THE DONOR OR OTHER
16 PERSON IS PHYSICALLY UNABLE TO SIGN.

17 (B) A LATER-EXECUTED DOCUMENT OF GIFT THAT AMENDS OR REVOKES
18 A PREVIOUS ANATOMICAL GIFT OR PORTION OF AN ANATOMICAL GIFT,
19 EITHER EXPRESSLY OR BY INCONSISTENCY.

20 (2) A RECORD SIGNED PURSUANT TO SUBSECTION (1) (A) (iii) SHALL
21 MEET ALL OF THE FOLLOWING REQUIREMENTS:

22 (A) BE WITNESSED BY AT LEAST 2 ADULTS, AT LEAST 1 OF WHOM IS
23 A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE
24 DONOR OR THE OTHER PERSON.

25 (B) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED
26 IN SUBDIVISION (A).

27 (3) SUBJECT TO SECTION 10108, A DONOR OR OTHER PERSON

1 AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER SECTION 10104 MAY
2 REVOKE AN ANATOMICAL GIFT BY THE DESTRUCTION OR CANCELLATION OF
3 THE DOCUMENT OF GIFT, OR THE PORTION OF THE DOCUMENT OF GIFT USED
4 TO MAKE THE GIFT, WITH THE INTENT TO REVOKE THE GIFT.

5 (4) A DONOR MAY AMEND OR REVOKE AN ANATOMICAL GIFT THAT WAS
6 NOT MADE IN A WILL BY ANY FORM OF COMMUNICATION DURING A TERMINAL
7 ILLNESS OR INJURY ADDRESSED TO AT LEAST 2 ADULTS, AT LEAST 1 OF
8 WHOM IS A DISINTERESTED WITNESS.

9 (5) A DONOR WHO MAKES AN ANATOMICAL GIFT IN A WILL MAY AMEND
10 OR REVOKE THE GIFT IN THE MANNER PROVIDED FOR AMENDMENT OR
11 REVOCATION OF WILLS OR AS PROVIDED IN SUBSECTION (1).

12 Sec. 10107. (1) ~~If the will, card, or other document or~~
13 ~~executed copy thereof, has been delivered to a specified donee,~~
14 ~~the donor may amend or revoke the gift by any of the following~~
15 ~~methods:~~

16 ~~—— (a) The execution and delivery to the donee of a signed~~
17 ~~statement.~~

18 ~~—— (b) An oral statement made in the presence of 2 persons and~~
19 ~~communicated to the donee.~~

20 ~~—— (c) A statement during a terminal illness or injury~~
21 ~~addressed to an attending physician and communicated to the~~
22 ~~donee.~~

23 ~~—— (d) A signed card or document found on the donor's person or~~
24 ~~in the donor's effects.~~

25 ~~—— (2) Any document of gift which has not been delivered to the~~
26 ~~donee may be revoked by the donor in the manner set out in~~
27 ~~subsection (1), or by destruction, cancellation, or mutilation of~~

1 ~~the document and all executed copies thereof.~~

2 ~~—— (3) Any gift made by a will may also be amended or revoked~~
3 ~~in the manner provided for amendment or revocation of wills, or~~
4 ~~as provided in subsection (1). AN INDIVIDUAL MAY REFUSE TO MAKE~~
5 ~~AN ANATOMICAL GIFT OF HIS OR HER BODY OR BODY PART BY ANY OF THE~~
6 ~~FOLLOWING MEANS:~~

7 (A) A RECORD SIGNED BY EITHER OF THE FOLLOWING:

8 (i) THE INDIVIDUAL.

9 (ii) SUBJECT TO SUBSECTION (2), ANOTHER INDIVIDUAL ACTING AT
10 THE DIRECTION OF THE INDIVIDUAL IF THE INDIVIDUAL IS PHYSICALLY
11 UNABLE TO SIGN.

12 (B) THE INDIVIDUAL'S WILL, WHETHER OR NOT THE WILL IS
13 ADMITTED TO PROBATE OR INVALIDATED AFTER HIS OR HER DEATH.

14 (C) ANY FORM OF COMMUNICATION MADE BY THE INDIVIDUAL DURING
15 HIS OR HER TERMINAL ILLNESS OR INJURY ADDRESSED TO AT LEAST 2
16 ADULTS, AT LEAST 1 OF WHOM IS A DISINTERESTED WITNESS.

17 (2) A RECORD SIGNED PURSUANT TO SUBSECTION (1) (A) (ii) SHALL
18 MEET ALL OF THE FOLLOWING REQUIREMENTS:

19 (A) BE WITNESSED BY AT LEAST 2 ADULTS, AT LEAST 1 OF WHOM IS
20 A DISINTERESTED WITNESS, WHO HAVE SIGNED AT THE REQUEST OF THE
21 INDIVIDUAL.

22 (B) STATE THAT IT HAS BEEN SIGNED AND WITNESSED AS PROVIDED
23 IN SUBDIVISION (A).

24 (3) AN INDIVIDUAL WHO HAS MADE A REFUSAL MAY AMEND OR REVOKE
25 THE REFUSAL BY ANY OF THE FOLLOWING MEANS:

26 (A) IN THE MANNER PROVIDED IN SUBSECTION (1) FOR MAKING A
27 REFUSAL.

1 (B) BY SUBSEQUENTLY MAKING AN ANATOMICAL GIFT PURSUANT TO
2 SECTION 10105 THAT IS INCONSISTENT WITH THE REFUSAL.

3 (C) BY DESTROYING OR CANCELING THE RECORD EVIDENCING THE
4 REFUSAL, OR THE PORTION OF THE RECORD USED TO MAKE THE REFUSAL,
5 WITH THE INTENT TO REVOKE THE REFUSAL.

6 (4) EXCEPT AS OTHERWISE PROVIDED IN SECTION 10108(8), IN THE
7 ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE INDIVIDUAL SET
8 FORTH IN THE REFUSAL, AN INDIVIDUAL'S UNREVOKED REFUSAL TO MAKE
9 AN ANATOMICAL GIFT OF HIS OR HER BODY OR BODY PART BARS ALL OTHER
10 PERSONS FROM MAKING AN ANATOMICAL GIFT OF THE INDIVIDUAL'S BODY
11 OR BODY PART.

12 Sec. 10108. (1) ~~The donee may accept or reject the gift. If~~
13 ~~the donee accepts a gift of the entire body, the person with~~
14 ~~authority to direct and arrange for the funeral and burial or~~
15 ~~other disposition of the body under section 3206 of the estates~~
16 ~~and protected individuals code, 1998 PA 386, MCL 700.3206,~~
17 ~~subject to the terms of the gift, may authorize embalming and the~~
18 ~~use of the body in funeral services. If the gift is a physical~~
19 ~~part of the body, the donee, upon the death of the donor and~~
20 ~~prior to embalming, shall cause the physical part to be removed~~
21 ~~without unnecessary mutilation. After removal of the physical~~
22 ~~part, custody of the remainder of the body vests in the person~~
23 ~~with authority to direct and arrange for the funeral and burial~~
24 ~~or other disposition of the remainder of the body under section~~
25 ~~3206 of the estates and protected individuals code, 1998 PA 386,~~
26 ~~MCL 700.3206. The holder of a license for the practice of~~
27 ~~mortuary science under article 18 of the occupational code, 1980~~

1 PA 299, MCL 339.1801 to 339.1812, who acts pursuant to the
2 directions of persons alleging to have authority to direct and
3 arrange for the funeral and burial or other disposition of the
4 remainder of the body, is relieved of any liability for the
5 funeral and for the burial or other disposition of the remainder
6 of the body. A holder of a license for the practice of mortuary
7 science under that act may rely on the instructions and
8 directions of any person alleging to be either a donee or a
9 person authorized under this part to donate a body or any
10 physical part thereof. A holder of a license for the practice of
11 mortuary science under that act is not liable for removal of any
12 physical part of a body donated under this part.

13 ——— (2) The time of death shall be determined by a physician who
14 attends the donor at the death, or, if none, the physician who
15 certifies the death. The attending or certifying physician shall
16 not participate in the procedures for removing or transplanting a
17 physical part.

18 ——— (3) A person, including a hospital, who acts in good faith
19 in accord with the terms of this part or with the anatomical gift
20 laws of another state or a foreign country is not liable for
21 damages in any civil action or subject to prosecution in any
22 criminal proceeding for the act.

23 ——— (4) This part is subject to the laws of this state
24 prescribing powers and duties with respect to autopsies. **EXCEPT**
25 **AS OTHERWISE PROVIDED IN SUBSECTION (7) AND SUBJECT TO SUBSECTION**
26 **(6), IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE**
27 **DONOR, A PERSON OTHER THAN THE DONOR IS BARRED FROM MAKING,**

1 AMENDING, OR REVOKING AN ANATOMICAL GIFT OF A DONOR'S BODY OR
2 BODY PART IF THE DONOR MADE AN ANATOMICAL GIFT OF THE DONOR'S
3 BODY OR BODY PART UNDER SECTION 10105 OR AN AMENDMENT TO AN
4 ANATOMICAL GIFT OF THE DONOR'S BODY OR BODY PART UNDER SECTION
5 10106.

6 (2) A DONOR'S REVOCATION OF AN ANATOMICAL GIFT OF THE
7 DONOR'S BODY OR BODY PART UNDER SECTION 10106 IS NOT A REFUSAL
8 AND DOES NOT BAR ANOTHER PERSON SPECIFIED IN SECTION 10104 OR
9 10109 FROM MAKING AN ANATOMICAL GIFT OF THE DONOR'S BODY OR BODY
10 PART UNDER SECTION 10105 OR 10110.

11 (3) IF A PERSON OTHER THAN THE DONOR MAKES AN UNREVOKED
12 ANATOMICAL GIFT OF THE DONOR'S BODY OR BODY PART UNDER SECTION
13 10105 OR AN AMENDMENT TO AN ANATOMICAL GIFT OF THE DONOR'S BODY
14 OR BODY PART UNDER SECTION 10106, ANOTHER PERSON MAY NOT MAKE,
15 AMEND, OR REVOKE THE GIFT OF THE DONOR'S BODY OR BODY PART UNDER
16 SECTION 10110.

17 (4) A REVOCATION OF AN ANATOMICAL GIFT OF A DONOR'S BODY OR
18 BODY PART UNDER SECTION 10106 BY A PERSON OTHER THAN THE DONOR
19 DOES NOT BAR ANOTHER PERSON FROM MAKING AN ANATOMICAL GIFT OF THE
20 BODY OR BODY PART UNDER SECTION 10105 OR 10110.

21 (5) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE
22 DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER
23 SECTION 10104, AN ANATOMICAL GIFT OF A BODY PART IS NEITHER A
24 REFUSAL TO GIVE ANOTHER BODY PART NOR A LIMITATION ON THE MAKING
25 OF AN ANATOMICAL GIFT OF ANOTHER BODY PART AT A LATER TIME BY THE
26 DONOR OR OTHER PERSON.

27 (6) IN THE ABSENCE OF AN EXPRESS, CONTRARY INDICATION BY THE

1 DONOR OR OTHER PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT UNDER
2 SECTION 10104, AN ANATOMICAL GIFT OF A BODY PART FOR 1 OR MORE OF
3 THE PURPOSES SET FORTH IN SECTION 10104 IS NOT A LIMITATION ON
4 THE MAKING OF AN ANATOMICAL GIFT OF THE BODY PART FOR ANY OF THE
5 OTHER PURPOSES BY THE DONOR OR ANY OTHER PERSON UNDER SECTION
6 10105 OR 10110.

7 (7) IF A DONOR WHO IS AN UNEMANCIPATED MINOR DIES, A PARENT
8 OF THE DONOR WHO IS REASONABLY AVAILABLE MAY REVOKE OR AMEND AN
9 ANATOMICAL GIFT OF THE DONOR'S BODY OR BODY PART.

10 (8) IF AN UNEMANCIPATED MINOR WHO SIGNED A REFUSAL DIES, A
11 PARENT OF THE MINOR WHO IS REASONABLY AVAILABLE MAY REVOKE THE
12 MINOR'S REFUSAL.

13 Sec. 10109. (1) ~~This part shall be construed to effectuate~~
14 ~~its general purpose to make uniform the law of those states which~~
15 ~~enact it.~~ SUBJECT TO SUBSECTIONS (2) AND (3) AND UNLESS BARRED BY
16 SECTION 10107 OR 10108, AN ANATOMICAL GIFT OF A DECEDENT'S BODY
17 OR BODY PART FOR PURPOSE OF TRANSPLANTATION, THERAPY, RESEARCH,
18 OR EDUCATION MAY BE MADE BY ANY MEMBER OF THE FOLLOWING CLASSES
19 OF PERSONS WHO IS REASONABLY AVAILABLE, IN THE ORDER OF PRIORITY
20 LISTED AS FOLLOWS:

21 (A) AN AGENT OF THE DECEDENT AT THE TIME OF DEATH WHO COULD
22 HAVE MADE AN ANATOMICAL GIFT UNDER SECTION 10104(B) IMMEDIATELY
23 BEFORE THE DECEDENT'S DEATH.

24 (B) THE SPOUSE OF THE DECEDENT.

25 (C) ADULT CHILDREN OF THE DECEDENT.

26 (D) PARENTS OF THE DECEDENT.

27 (E) ADULT SIBLINGS OF THE DECEDENT.

1 (F) ADULT GRANDCHILDREN OF THE DECEDENT.

2 (G) GRANDPARENTS OF THE DECEDENT.

3 (H) AN ADULT WHO EXHIBITED SPECIAL CARE AND CONCERN FOR THE
4 DECEDENT.

5 (I) THE PERSONS WHO WERE ACTING AS THE GUARDIANS OF THE
6 PERSON OF THE DECEDENT AT THE TIME OF DEATH.

7 (J) THE PERSONS ASSIGNED BY THE STATE OF MICHIGAN TO
8 AUTHORIZE MEDICAL CARE FOR THE DECEDENT AT THE TIME OF DEATH,
9 INCLUDING PUBLIC WARD CUSTODIANS, CORRECTIONAL OR MENTAL HEALTH
10 FACILITY PERSONNEL, OR FOSTER PARENTS.

11 (K) ANY OTHER PERSON THAT HAS THE AUTHORITY TO DISPOSE OF
12 THE DECEDENT'S BODY, INCLUDING UNIDENTIFIED BODIES, UNDER SECTION
13 3206 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386,
14 MCL 700.3206.

15 (2) IF THERE IS MORE THAN 1 MEMBER OF A CLASS LISTED IN
16 SUBSECTION (1) (A), (C), (D), (E), (F), (G), OR (I) ENTITLED TO
17 MAKE AN ANATOMICAL GIFT, AN ANATOMICAL GIFT MAY BE MADE BY A
18 MEMBER OF THE CLASS UNLESS THAT MEMBER OR A PERSON TO WHICH THE
19 GIFT MAY PASS UNDER SECTION 10111 KNOWS OF AN OBJECTION BY
20 ANOTHER MEMBER OF THE CLASS. IF AN OBJECTION IS KNOWN, THE GIFT
21 MAY BE MADE ONLY BY A MAJORITY OF THE MEMBERS OF THE CLASS WHO
22 ARE REASONABLY AVAILABLE.

23 (3) A PERSON SHALL NOT MAKE AN ANATOMICAL GIFT IF, AT THE
24 TIME OF THE DECEDENT'S DEATH, A PERSON IN A PRIOR CLASS UNDER
25 SUBSECTION (1) IS REASONABLY AVAILABLE TO MAKE OR TO OBJECT TO
26 THE MAKING OF AN ANATOMICAL GIFT.

27 SEC. 10110. (1) A PERSON AUTHORIZED TO MAKE AN ANATOMICAL

1 GIFT UNDER SECTION 10109 MAY MAKE AN ANATOMICAL GIFT BY A
2 DOCUMENT OF GIFT SIGNED BY THE PERSON MAKING THE GIFT OR BY THAT
3 PERSON'S ORAL COMMUNICATION THAT IS ELECTRONICALLY RECORDED OR IS
4 CONTEMPORANEOUSLY REDUCED TO A RECORD AND SIGNED BY THE
5 INDIVIDUAL RECEIVING THE ORAL COMMUNICATION.

6 (2) SUBJECT TO SUBSECTION (3), AN ANATOMICAL GIFT BY A
7 PERSON AUTHORIZED UNDER SECTION 10109 MAY BE AMENDED OR REVOKED
8 ORALLY OR IN A RECORD BY ANY MEMBER OF A PRIOR CLASS WHO IS
9 REASONABLY AVAILABLE. IF MORE THAN 1 MEMBER OF THE PRIOR CLASS IS
10 REASONABLY AVAILABLE, THE GIFT MADE BY A PERSON AUTHORIZED UNDER
11 SECTION 10109 MAY BE AMENDED OR REVOKED AS FOLLOWS:

12 (A) AMENDED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE
13 MEMBERS AGREE TO THE AMENDING OF THE GIFT.

14 (B) REVOKED ONLY IF A MAJORITY OF THE REASONABLY AVAILABLE
15 MEMBERS AGREE TO THE REVOKING OF THE GIFT OR IF THEY ARE EQUALLY
16 DIVIDED AS TO WHETHER TO REVOKE THE GIFT.

17 (3) A REVOCATION UNDER SUBSECTION (2) IS EFFECTIVE ONLY IF,
18 BEFORE AN INCISION HAS BEEN MADE TO REMOVE A PART FROM THE
19 DONOR'S BODY OR BEFORE INVASIVE PROCEDURES HAVE BEGUN TO PREPARE
20 THE RECIPIENT, THE PROCUREMENT ORGANIZATION, TRANSPLANT HOSPITAL,
21 OR PHYSICIAN OR TECHNICIAN KNOWS OF THE REVOCATION.

22 SEC. 10111. (1) AN ANATOMICAL GIFT MAY BE MADE TO ANY OF THE
23 FOLLOWING PERSONS NAMED IN THE DOCUMENT OF GIFT:

24 (A) A HOSPITAL; ACCREDITED MEDICAL SCHOOL, DENTAL SCHOOL,
25 COLLEGE, OR UNIVERSITY; ORGAN PROCUREMENT ORGANIZATION; OR OTHER
26 APPROPRIATE PERSON, FOR RESEARCH OR EDUCATION.

27 (B) SUBJECT TO SUBSECTION (2), AN INDIVIDUAL DESIGNATED BY

1 THE PERSON MAKING THE ANATOMICAL GIFT IF THE INDIVIDUAL IS THE
2 RECIPIENT OF THE BODY PART.

3 (C) AN EYE BANK OR TISSUE BANK.

4 (2) IF AN ANATOMICAL GIFT TO AN INDIVIDUAL UNDER SUBSECTION
5 (1) (B) CANNOT BE TRANSPLANTED INTO THE INDIVIDUAL, THE BODY PART
6 PASSES PURSUANT TO SUBSECTION (7) IN THE ABSENCE OF AN EXPRESS,
7 CONTRARY INDICATION BY THE PERSON MAKING THE ANATOMICAL GIFT.

8 (3) IF AN ANATOMICAL GIFT OF 1 OR MORE SPECIFIC BODY PARTS
9 OR OF ALL BODY PARTS IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT
10 NAME A PERSON DESCRIBED IN SUBSECTION (1) BUT IDENTIFIES THE
11 PURPOSE FOR WHICH AN ANATOMICAL GIFT MAY BE USED, THE FOLLOWING
12 RULES APPLY:

13 (A) IF THE BODY PART IS AN EYE AND THE GIFT IS FOR THE
14 PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE
15 APPROPRIATE EYE BANK.

16 (B) IF THE BODY PART IS TISSUE AND THE GIFT IS FOR THE
17 PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE
18 APPROPRIATE TISSUE BANK.

19 (C) IF THE BODY PART IS AN ORGAN AND THE GIFT IS FOR THE
20 PURPOSE OF TRANSPLANTATION OR THERAPY, THE GIFT PASSES TO THE
21 APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE
22 ORGAN.

23 (D) IF THE BODY PART IS AN ORGAN, AN EYE, OR TISSUE AND THE
24 GIFT IS FOR THE PURPOSE OF RESEARCH OR EDUCATION, THE GIFT PASSES
25 TO THE APPROPRIATE PROCUREMENT ORGANIZATION.

26 (4) FOR THE PURPOSE OF SUBSECTION (3) AND AS OTHERWISE
27 SPECIFIED IN THIS SECTION, IF THERE IS MORE THAN 1 PURPOSE OF AN

1 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. IF THE GIFT
4 CANNOT BE USED FOR TRANSPLANTATION OR THERAPY, THE GIFT MAY BE
5 USED FOR RESEARCH OR EDUCATION.

6 (5) IF AN ANATOMICAL GIFT OF 1 OR MORE SPECIFIC BODY PARTS
7 IS MADE IN A DOCUMENT OF GIFT THAT DOES NOT NAME A PERSON
8 DESCRIBED IN SUBSECTION (1) AND DOES NOT IDENTIFY THE PURPOSE OF
9 THE GIFT, THE GIFT MAY BE USED FOR TRANSPLANTATION, THERAPY,
10 RESEARCH, OR EDUCATION PURSUANT TO SUBSECTIONS (4) AND (7).

11 (6) IF A DOCUMENT OF GIFT SPECIFIES ONLY A GENERAL INTENT TO
12 MAKE AN ANATOMICAL GIFT BY WORDS SUCH AS "DONOR", "ORGAN DONOR",
13 OR "BODY DONOR" OR BY A SYMBOL OR STATEMENT OF SIMILAR IMPORT,
14 THE GIFT MAY BE USED FOR TRANSPLANTATION, THERAPY, RESEARCH, OR
15 EDUCATION PURSUANT TO SUBSECTIONS (4) AND (7).

16 (7) FOR PURPOSES OF SUBSECTIONS (2), (5), AND (6), THE
17 FOLLOWING RULES APPLY:

18 (A) IF THE BODY PART IS AN EYE, THE GIFT PASSES TO THE
19 APPROPRIATE EYE BANK.

20 (B) IF THE BODY PART IS TISSUE, THE GIFT PASSES TO THE
21 APPROPRIATE TISSUE BANK.

22 (C) IF THE BODY PART IS AN ORGAN, THE GIFT PASSES TO THE
23 APPROPRIATE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE
24 ORGAN.

25 (8) AN ANATOMICAL GIFT OF AN ORGAN FOR TRANSPLANTATION OR
26 THERAPY, OTHER THAN AN ANATOMICAL GIFT UNDER SUBSECTION (1)(B),
27 PASSES TO THE ORGAN PROCUREMENT ORGANIZATION AS CUSTODIAN OF THE

1 ORGAN.

2 (9) IF AN ANATOMICAL GIFT DOES NOT PASS PURSUANT TO
3 SUBSECTIONS (1) THROUGH (8) OR THE DECEDENT'S BODY OR BODY PART
4 IS NOT USED FOR TRANSPLANTATION, THERAPY, RESEARCH, OR EDUCATION,
5 CUSTODY OF THE BODY OR BODY PART PASSES TO THE PERSON UNDER
6 OBLIGATION TO DISPOSE OF THE BODY OR BODY PART.

7 (10) A PERSON SHALL NOT ACCEPT AN ANATOMICAL GIFT IF THE
8 PERSON KNOWS THAT THE GIFT WAS NOT EFFECTIVELY MADE UNDER SECTION
9 10105 OR 10110 OR IF THE PERSON KNOWS THAT THE DECEDENT MADE A
10 REFUSAL UNDER SECTION 10107 THAT WAS NOT REVOKED. FOR PURPOSES OF
11 THIS SUBSECTION, IF A PERSON KNOWS THAT AN ANATOMICAL GIFT WAS
12 MADE ON A DOCUMENT OF GIFT, THE PERSON IS CONSIDERED TO KNOW OF
13 ANY AMENDMENT OR REVOCATION OF THE GIFT OR ANY REFUSAL TO MAKE AN
14 ANATOMICAL GIFT ON THE SAME DOCUMENT OF GIFT.

15 (11) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1) (B),
16 NOTHING IN THIS PART AFFECTS THE ALLOCATION OF ORGANS FOR
17 TRANSPLANTATION OR THERAPY.

18 SEC. 10112. (1) AS SOON AS PRACTICAL AFTER ANY NECESSARY
19 MEDICAL INTERVENTION OR TREATMENT, EACH OF THE FOLLOWING PERSONS
20 SHALL MAKE A REASONABLE SEARCH OF AN INDIVIDUAL WHO THE PERSON
21 REASONABLY BELIEVES IS DEAD OR NEAR DEATH FOR A DOCUMENT OF GIFT
22 OR OTHER INFORMATION IDENTIFYING THE INDIVIDUAL AS A DONOR OR AS
23 AN INDIVIDUAL WHO MADE A REFUSAL:

24 (A) A LAW ENFORCEMENT OFFICER, FIREFIGHTER, PARAMEDIC, OTHER
25 EMERGENCY RESCUER FINDING THE INDIVIDUAL, OR MEDICAL EXAMINER OR
26 HIS OR HER DESIGNEE.

27 (B) IF NO OTHER SOURCE OF THE INFORMATION IS IMMEDIATELY

1 AVAILABLE, A HOSPITAL, AS SOON AS PRACTICAL AFTER THE
2 INDIVIDUAL'S ARRIVAL AT THE HOSPITAL.

3 (2) IF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN ANATOMICAL
4 GIFT IS LOCATED BY THE SEARCH REQUIRED BY SUBSECTION (1)(A) AND
5 THE INDIVIDUAL OR DECEASED INDIVIDUAL TO WHOM IT RELATES IS TAKEN
6 TO A HOSPITAL, THE PERSON RESPONSIBLE FOR CONDUCTING THE SEARCH
7 SHALL IMMEDIATELY SEND THE DOCUMENT OF GIFT OR REFUSAL TO THE
8 HOSPITAL FOR DOCUMENTATION.

9 (3) A PERSON IS NOT SUBJECT TO CRIMINAL OR CIVIL LIABILITY
10 FOR FAILING TO DISCHARGE THE DUTIES IMPOSED BY THIS SECTION BUT
11 MAY BE SUBJECT TO ADMINISTRATIVE SANCTIONS.

12 SEC. 10113. (1) A DOCUMENT OF GIFT NEED NOT BE DELIVERED
13 DURING THE DONOR'S LIFETIME TO BE EFFECTIVE.

14 (2) UPON OR AFTER AN INDIVIDUAL'S DEATH, A PERSON IN
15 POSSESSION OF A DOCUMENT OF GIFT OR A REFUSAL TO MAKE AN
16 ANATOMICAL GIFT WITH RESPECT TO THE DECEDENT SHALL ALLOW
17 EXAMINATION AND COPYING OF THE DOCUMENT OF GIFT OR REFUSAL BY A
18 PERSON AUTHORIZED TO MAKE OR OBJECT TO THE MAKING OF AN
19 ANATOMICAL GIFT WITH RESPECT TO THE DECEDENT OR BY A PERSON TO
20 WHICH THE GIFT COULD PASS UNDER SECTION 10111.

21 SEC. 10114. (1) WHEN A HOSPITAL REFERS AN INDIVIDUAL AT OR
22 NEAR DEATH TO A PROCUREMENT ORGANIZATION, THE PROCUREMENT
23 ORGANIZATION SHALL MAKE A REASONABLE SEARCH OF THE RECORDS OF THE
24 SECRETARY OF STATE AND ANY DONOR REGISTRY THAT IT KNOWS EXISTS
25 FOR THE GEOGRAPHICAL AREA IN WHICH THE INDIVIDUAL RESIDES TO
26 ASCERTAIN WHETHER THE INDIVIDUAL HAS MADE AN ANATOMICAL GIFT.

27 (2) A PROCUREMENT ORGANIZATION SHALL BE ALLOWED REASONABLE

1 ACCESS TO INFORMATION IN THE RECORDS OF THE SECRETARY OF STATE TO
2 ASCERTAIN WHETHER AN INDIVIDUAL AT OR NEAR DEATH IS A DONOR.

3 (3) WHEN A HOSPITAL REFERS AN INDIVIDUAL AT OR NEAR DEATH TO
4 A PROCUREMENT ORGANIZATION, THE ORGANIZATION MAY CONDUCT ANY
5 REASONABLE EXAMINATION NECESSARY TO ENSURE THE MEDICAL
6 SUITABILITY OF A BODY PART THAT IS OR COULD BE THE SUBJECT OF AN
7 ANATOMICAL GIFT FOR TRANSPLANTATION, THERAPY, RESEARCH, OR
8 EDUCATION FROM A DONOR OR A PROSPECTIVE DONOR, REGARDLESS OF A
9 PRIOR DECISION TO WITHHOLD OR WITHDRAW CARE AS DESCRIBED IN
10 SECTION 10121. DURING THE EXAMINATION PERIOD, MEASURES NECESSARY
11 TO ENSURE THE MEDICAL SUITABILITY OF THE BODY PART SHALL NOT BE
12 WITHDRAWN UNLESS THE HOSPITAL OR PROCUREMENT ORGANIZATION KNOWS
13 THAT THE INDIVIDUAL EXPRESSED A CONTRARY INTENT.

14 (4) UNLESS PROHIBITED BY LAW OTHER THAN THIS PART, AT ANY
15 TIME AFTER A DONOR'S DEATH, THE PERSON TO WHICH A BODY PART
16 PASSES UNDER SECTION 10111 MAY CONDUCT ANY REASONABLE EXAMINATION
17 NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY OR BODY
18 PART FOR ITS INTENDED PURPOSE.

19 (5) UNLESS PROHIBITED BY LAW OTHER THAN THIS PART, AN
20 EXAMINATION UNDER SUBSECTION (3) OR (4) MAY INCLUDE AN
21 EXAMINATION OF ALL MEDICAL AND DENTAL RECORDS OR OTHER SOURCES OF
22 MEDICAL INFORMATION PERTAINING TO THE DONOR OR PROSPECTIVE DONOR,
23 INCLUDING THOSE HELD BY A MEDICAL EXAMINER'S OFFICE, CORRECTIONAL
24 FACILITY, PHYSICIAN'S OFFICE, OR OTHER MEDICAL ENTITY.

25 (6) UPON THE DEATH OF A MINOR WHO WAS A DONOR OR HAD SIGNED
26 A REFUSAL, UNLESS A PROCUREMENT ORGANIZATION KNOWS THAT THE MINOR
27 IS EMANCIPATED, THE PROCUREMENT ORGANIZATION SHALL CONDUCT A

1 REASONABLE SEARCH FOR THE PARENTS OF THE MINOR AND PROVIDE THE
2 PARENTS WITH AN OPPORTUNITY TO REVOKE OR AMEND THE ANATOMICAL
3 GIFT OR REVOKE THE REFUSAL.

4 (7) UPON REFERRAL BY A HOSPITAL UNDER SUBSECTION (1), A
5 PROCUREMENT ORGANIZATION SHALL MAKE A REASONABLE SEARCH FOR ANY
6 PERSON LISTED IN SECTION 10109 THAT HAS PRIORITY TO MAKE AN
7 ANATOMICAL GIFT ON BEHALF OF A PROSPECTIVE DONOR. IF A
8 PROCUREMENT ORGANIZATION RECEIVES INFORMATION THAT AN ANATOMICAL
9 GIFT TO ANY OTHER PERSON WAS MADE, AMENDED, OR REVOKED, IT SHALL
10 PROMPTLY ADVISE THE OTHER PERSON OF ALL RELEVANT INFORMATION.

11 (8) SUBJECT TO SECTION 10111(9), THE RIGHTS OF THE PERSON TO
12 WHICH A BODY PART PASSES UNDER SECTION 10111 ARE SUPERIOR TO THE
13 RIGHTS OF ALL OTHERS WITH RESPECT TO THE BODY PART. THE PERSON
14 MAY ACCEPT OR REJECT AN ANATOMICAL GIFT IN WHOLE OR IN PART.
15 SUBJECT TO THE TERMS OF THE DOCUMENT OF GIFT AND THIS PART, A
16 PERSON THAT ACCEPTS AN ANATOMICAL GIFT OF AN ENTIRE BODY MAY
17 ALLOW EMBALMING, BURIAL, OR CREMATION, AND USE OF REMAINS IN A
18 FUNERAL SERVICE. IF THE GIFT IS OF A BODY PART, THE PERSON TO
19 WHICH THE BODY PART PASSES UNDER SECTION 10111, UPON THE DEATH OF
20 THE DONOR AND BEFORE EMBALMING, BURIAL, OR CREMATION, SHALL CAUSE
21 THE BODY PART TO BE REMOVED WITHOUT UNNECESSARY MUTILATION.

22 (9) NEITHER THE PHYSICIAN WHO ATTENDS THE DECEDENT AT DEATH
23 NOR THE PHYSICIAN WHO DETERMINES THE TIME OF THE DECEDENT'S DEATH
24 MAY PARTICIPATE IN THE PROCEDURES FOR REMOVING OR TRANSPLANTING A
25 BODY PART FROM THE DECEDENT.

26 (10) A PHYSICIAN OR TECHNICIAN MAY REMOVE A DONATED PART
27 FROM THE BODY OF A DONOR THAT THE PHYSICIAN OR TECHNICIAN IS

1 QUALIFIED TO REMOVE.

2 SEC. 10115. EACH HOSPITAL IN THIS STATE SHALL ENTER INTO
3 AGREEMENTS OR AFFILIATIONS WITH PROCUREMENT ORGANIZATIONS FOR
4 COORDINATION OF PROCUREMENT AND USE OF ANATOMICAL GIFTS.

5 SEC. 10116. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
6 (2), A PERSON THAT FOR VALUABLE CONSIDERATION KNOWINGLY PURCHASES
7 OR SELLS A BODY PART FOR TRANSPLANTATION OR THERAPY IF REMOVAL OF
8 THE BODY PART FROM AN INDIVIDUAL IS INTENDED TO OCCUR AFTER THE
9 INDIVIDUAL'S DEATH IS GUILTY OF A FELONY PUNISHABLE BY
10 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
11 \$50,000.00, OR BOTH.

12 (2) A PERSON MAY CHARGE A REASONABLE AMOUNT FOR THE REMOVAL,
13 PROCESSING, PRESERVATION, QUALITY CONTROL, STORAGE,
14 TRANSPORTATION, IMPLANTATION, OR DISPOSAL OF A BODY PART.

15 SEC. 10117. A PERSON THAT, IN ORDER TO OBTAIN A FINANCIAL
16 GAIN, INTENTIONALLY FALSIFIES, FORGES, CONCEALS, DEFACES, OR
17 OBLITERATES A DOCUMENT OF GIFT, AN AMENDMENT OR REVOCATION OF A
18 DOCUMENT OF GIFT, OR A REFUSAL IS GUILTY OF A FELONY PUNISHABLE
19 BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE
20 THAN \$50,000.00, OR BOTH.

21 SEC. 10118. (1) A PERSON THAT ACTS IN GOOD FAITH IN ACCORD
22 WITH THE TERMS OF THIS PART OR WITH THE ANATOMICAL GIFT LAWS OF
23 ANOTHER STATE OR A FOREIGN COUNTRY IS NOT LIABLE FOR DAMAGES IN
24 ANY CIVIL OR ADMINISTRATIVE ACTION OR SUBJECT TO PROSECUTION IN
25 ANY CRIMINAL PROCEEDING.

26 (2) NEITHER THE PERSON MAKING AN ANATOMICAL GIFT NOR THE
27 DONOR'S ESTATE IS LIABLE FOR ANY INJURY OR DAMAGE THAT RESULTS

1 FROM THE MAKING OR USE OF THE GIFT.

2 (3) IN DETERMINING WHETHER AN ANATOMICAL GIFT HAS BEEN MADE,
3 AMENDED, OR REVOKED UNDER THIS PART, A PERSON MAY RELY UPON
4 REPRESENTATIONS OF AN INDIVIDUAL LISTED IN SECTION 10109(1)(B),
5 (C), (D), (E), (F), (G), OR (H) RELATING TO THE INDIVIDUAL'S
6 RELATIONSHIP TO THE DONOR OR PROSPECTIVE DONOR UNLESS THE PERSON
7 KNOWS THAT THE REPRESENTATION IS UNTRUE.

8 SEC. 10119. (1) A DOCUMENT OF GIFT IS VALID IF EXECUTED
9 PURSUANT TO ANY OF THE FOLLOWING:

10 (A) THIS PART.

11 (B) THE LAWS OF THE STATE OR COUNTRY WHERE IT WAS EXECUTED.

12 (C) THE LAWS OF THE STATE OR COUNTRY WHERE THE PERSON MAKING
13 THE ANATOMICAL GIFT WAS DOMICILED, HAD A PLACE OF RESIDENCE, OR
14 WAS A NATIONAL AT THE TIME THE DOCUMENT OF GIFT WAS EXECUTED.

15 (2) IF A DOCUMENT OF GIFT IS VALID UNDER THIS SECTION, THE
16 LAW OF THIS STATE GOVERNS THE INTERPRETATION OF THE DOCUMENT OF
17 GIFT.

18 (3) A PERSON MAY PRESUME THAT A DOCUMENT OF GIFT OR
19 AMENDMENT OF AN ANATOMICAL GIFT IS VALID UNLESS THAT PERSON KNOWS
20 THAT IT WAS NOT VALIDLY EXECUTED OR WAS REVOKED.

21 SEC. 10120. (1) THE ORGAN PROCUREMENT ORGANIZATION MAY
22 ESTABLISH OR CONTRACT FOR THE ESTABLISHMENT OF A DONOR REGISTRY.

23 (2) AS PROVIDED FOR IN SECTION 2 OF 1972 PA 222, MCL 28.292,
24 AND SECTION 310 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
25 257.310, THE SECRETARY OF STATE SHALL INQUIRE OF EACH APPLICANT,
26 LICENSEE, OR STATE IDENTIFICATION CARD HOLDER, IN PERSON OR BY
27 MAIL, WHETHER THE INDIVIDUAL AGREES TO PARTICIPATE IN A DONOR

1 REGISTRY AS DESCRIBED IN THIS PART. THE SECRETARY OF STATE SHALL
2 MAINTAIN A RECORD OF AN INDIVIDUAL WHO INDICATES A WILLINGNESS TO
3 HAVE HIS OR HER NAME PLACED ON THE DONOR REGISTRY. THE SECRETARY
4 OF STATE SHALL MAINTAIN THE DONOR REGISTRY IN A MANNER THAT
5 PROVIDES ELECTRONIC ACCESS, INCLUDING, BUT NOT LIMITED TO, THE
6 TRANSFER OF DATA, TO THE ORGAN PROCUREMENT ORGANIZATION OR ITS
7 SUCCESSOR ORGANIZATION, TISSUE BANKS, AND EYE BANKS. THE
8 SECRETARY OF STATE SHALL ADMINISTER THE DONOR REGISTRY IN A
9 MANNER THAT COMPLIES WITH SUBSECTIONS (3) AND (4).

10 (3) A DONOR REGISTRY UNDER THIS SECTION SHALL MEET ALL OF
11 THE FOLLOWING REQUIREMENTS:

12 (A) BE ACCESSIBLE TO A PROCUREMENT ORGANIZATION TO ALLOW IT
13 TO OBTAIN THE NAME, ADDRESS, AND DATE OF BIRTH OF PERSONS ON THE
14 DONOR REGISTRY TO DETERMINE, AT OR NEAR DEATH OF THE DONOR OR A
15 PROSPECTIVE DONOR, WHETHER THE DONOR OR PROSPECTIVE DONOR HAS
16 MADE AN ANATOMICAL GIFT.

17 (B) PROVIDE ELECTRONIC ACCESS, INCLUDING, BUT NOT LIMITED
18 TO, THE TRANSFER OF DATA FOR PURPOSES OF SUBDIVISION (A) ON A 7-
19 DAY-A-WEEK, 24-HOUR-A-DAY BASIS AT NO COST TO THE PROCUREMENT
20 ORGANIZATION.

21 (4) PERSONALLY IDENTIFIABLE INFORMATION ON A DONOR REGISTRY
22 ABOUT A DONOR OR PROSPECTIVE DONOR SHALL NOT BE USED OR DISCLOSED
23 WITHOUT THE EXPRESS CONSENT OF THE DONOR, PROSPECTIVE DONOR, OR
24 PERSON THAT MADE THE ANATOMICAL GIFT FOR ANY PURPOSE OTHER THAN
25 TO DETERMINE, AT OR NEAR DEATH OF THE DONOR OR PROSPECTIVE DONOR,
26 WHETHER THE DONOR OR PROSPECTIVE DONOR HAS MADE, AMENDED, OR
27 REVOKED AN ANATOMICAL GIFT.

1 (5) THIS SECTION DOES NOT PROHIBIT ANY PERSON FROM CREATING
2 OR MAINTAINING A DONOR REGISTRY THAT IS NOT ESTABLISHED BY OR
3 UNDER CONTRACT WITH THIS STATE. A DONOR REGISTRY THAT IS NOT
4 ESTABLISHED BY OR UNDER CONTRACT WITH THIS STATE SHALL DO ALL OF
5 THE FOLLOWING:

6 (A) COMPLY WITH SUBSECTIONS (3) AND (4).

7 (B) WITHIN 30 DAYS OF ITS ESTABLISHMENT, NOTIFY THE ORGAN
8 PROCUREMENT ORGANIZATION OF ITS ESTABLISHMENT.

9 (C) WITHIN 30 DAYS OF ITS ESTABLISHMENT, GIVE THE ORGAN
10 PROCUREMENT ORGANIZATION FULL ACCESS TO ITS RECORDS OF ANATOMICAL
11 GIFTS AND AMENDMENTS TO OR REVOCATIONS OF ANATOMICAL GIFTS.

12 SEC. 10121. (1) AS USED IN THIS SECTION:

13 (A) "ADVANCE HEALTH CARE DIRECTIVE" MEANS A POWER OF
14 ATTORNEY FOR HEALTH CARE OR A RECORD SIGNED OR AUTHORIZED BY A
15 PROSPECTIVE DONOR CONTAINING THE PROSPECTIVE DONOR'S DIRECTION
16 CONCERNING A HEALTH CARE DECISION FOR THE PROSPECTIVE DONOR.
17 ADVANCE HEALTH CARE DIRECTIVE INCLUDES A DURABLE POWER OF
18 ATTORNEY AND DESIGNATION OF PATIENT ADVOCATE UNDER PART 5 OF
19 ARTICLE V OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA
20 386, MCL 700.5501 TO 700.5520.

21 (B) "DECLARATION" MEANS A RECORD SIGNED BY A PROSPECTIVE
22 DONOR SPECIFYING THE CIRCUMSTANCES UNDER WHICH A LIFE SUPPORT
23 SYSTEM MAY BE WITHHELD OR WITHDRAWN FROM THE PROSPECTIVE DONOR.

24 (C) "HEALTH CARE DECISION" MEANS ANY DECISION REGARDING THE
25 HEALTH CARE OF THE PROSPECTIVE DONOR.

26 (2) IF A PROSPECTIVE DONOR HAS A DECLARATION OR ADVANCE
27 HEALTH CARE DIRECTIVE OR IS ENROLLED IN A HOSPICE PROGRAM, AND

1 THE TERMS OF THE DECLARATION, DIRECTIVE, OR ENROLLMENT AND THE
2 EXPRESS OR IMPLIED TERMS OF A POTENTIAL ANATOMICAL GIFT ARE IN
3 CONFLICT WITH REGARD TO THE ADMINISTRATION OF MEASURES NECESSARY
4 TO ENSURE THE MEDICAL SUITABILITY OF A BODY PART FOR
5 TRANSPLANTATION OR THERAPY, THE PROSPECTIVE DONOR'S ATTENDING
6 PHYSICIAN, THE PROSPECTIVE DONOR, AND, IF APPROPRIATE, THE
7 HOSPICE MEDICAL DIRECTOR SHALL CONFER TO RESOLVE THE CONFLICT. IF
8 THE PROSPECTIVE DONOR IS INCAPABLE OF RESOLVING THE CONFLICT, AN
9 AGENT ACTING UNDER THE PROSPECTIVE DONOR'S DECLARATION,
10 DIRECTIVE, OR HOSPICE ENROLLMENT, OR, IF NONE OR THE AGENT IS NOT
11 REASONABLY AVAILABLE, ANOTHER PERSON AUTHORIZED BY LAW OTHER THAN
12 THIS PART TO MAKE HEALTH CARE DECISIONS ON BEHALF OF THE
13 PROSPECTIVE DONOR, SHALL ACT FOR THE DONOR TO RESOLVE THE
14 CONFLICT. THE AUTHORIZED PARTIES SHALL ATTEMPT TO RESOLVE THE
15 CONFLICT AS EXPEDITIOUSLY AS POSSIBLE. AUTHORIZED PARTIES MAY
16 OBTAIN INFORMATION RELEVANT TO THE RESOLUTION OF THE CONFLICT
17 FROM THE APPROPRIATE PROCUREMENT ORGANIZATION AND ANY OTHER
18 PERSON AUTHORIZED TO MAKE AN ANATOMICAL GIFT FOR THE PROSPECTIVE
19 DONOR UNDER SECTION 10109. BEFORE RESOLUTION OF THE CONFLICT,
20 MEASURES NECESSARY TO ENSURE THE MEDICAL SUITABILITY OF THE BODY
21 PART ARE PERMISSIBLE IF THEY ARE NOT CONTRAINDICATED BY
22 APPROPRIATE END-OF-LIFE CARE AS DETERMINED BY THE STATED WISHES
23 OF THE PROSPECTIVE DONOR, BY A WRITTEN ADVANCE HEALTH CARE
24 DIRECTIVE, OR, IF APPROPRIATE, BY THE HOSPICE MEDICAL DIRECTOR.

25 SEC. 10122. IN APPLYING AND CONSTRUING THIS PART,
26 CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF
27 THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT

1 ENACT IT.

2 SEC. 10123. THIS PART MODIFIES, LIMITS, AND SUPERSEDES THE
3 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 USC
4 7001 TO 7031, BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE 15 USC
5 7001(A), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
6 DESCRIBED IN 15 USC 7003(B).

7 Sec. 10204. (1) Except as otherwise provided in subsection
8 (2), a person shall not knowingly acquire, receive, or otherwise
9 transfer a human organ or part of a human organ for valuable
10 consideration for any purpose, including but not limited to
11 transplantation, implantation, infusion, injection, or other
12 medical or scientific purpose. A person who violates this
13 subsection is guilty of a felony.

14 (2) Subsection (1) does not prohibit 1 or more of the
15 following practices:

16 (a) The removal and use of a human cornea pursuant to
17 section 10202, or the removal and use of a human pituitary gland
18 pursuant to section 2855.

19 (b) An anatomical gift pursuant to part 101, or the
20 acquisition or distribution of bodies or parts by the ~~director~~
21 **DEPARTMENT** pursuant to sections ~~2651-2652~~ to 2663.

22 (c) Financial assistance payments provided under a plan of
23 insurance or other health care coverage.

24 (3) ~~Only~~ **EXCEPT AS OTHERWISE PROVIDED IN PART 101, ONLY** an
25 individual who is 1 of the following may surgically remove a
26 human organ for transplantation, implantation, infusion,
27 injection, or any other medical or scientific purpose:

- 1 (a) A physician licensed under article 15.
- 2 (b) An individual acting under the delegatory authority and
3 supervision of a physician pursuant to section 16215(2), but not
4 including an individual whose license has been suspended under
5 article 15. This subdivision includes, but is not limited to, an
6 individual described in section 16215(3).
- 7 ~~———— (c) For the purposes of surgically removing a human organ
8 that is an eye or a physical part of an eye only, an individual
9 certified by a state medical school as described in section
10 10105.~~
- 11 (C) ~~(d)~~ An individual residing in another state and
12 authorized to practice allopathic medicine or osteopathic
13 medicine and surgery in that state who is called into this state
14 by a physician licensed under article 15 and is authorized by a
15 hospital licensed under article 17 to surgically remove 1 or more
16 of the following organs for transport back to the other state:
- 17 (i) A heart.
- 18 (ii) A liver.
- 19 (iii) A lung.
- 20 (iv) A pancreas.
- 21 (v) A kidney.
- 22 (vi) All or part of an intestine.
- 23 (vii) Any other human organ specified by rule promulgated by
24 the department under subsection (6).
- 25 (4) An individual who violates subsection (3) is guilty of a
26 felony.
- 27 (5) As used in this section:

1 (a) "Human organ" means the human kidney, liver, heart,
2 lung, pancreas, intestine, bone marrow, cornea, eye, bone, skin,
3 cartilage, dura mater, ligaments, tendons, fascia, pituitary
4 gland, and middle ear structures and any other human organ
5 specified by rule promulgated by the department under subsection
6 (6). Human organ does not include whole blood, blood plasma,
7 blood products, blood derivatives, other self-replicating body
8 fluids, or human hair.

9 (b) "Valuable consideration" does not include the reasonable
10 payments associated with the removal, transportation,
11 implantation, processing, preservation, quality control, and
12 storage of a human organ or the medical expenses and expenses of
13 travel, housing, and lost wages incurred by the donor of a human
14 organ in connection with the donation of the human organ.

15 (6) The department may promulgate rules to specify human
16 organs in addition to the human organs listed in subsection
17 ~~(3)(d)(i) to (vi)~~ **(3)(C)** or (5)(a).

18 Sec. 20165. (1) Except as otherwise provided in this
19 section, after notice of intent to an applicant or licensee to
20 deny, limit, suspend, or revoke the applicant's or licensee's
21 license or certification and an opportunity for a hearing, the
22 department may deny, limit, suspend, or revoke the license or
23 certification or impose an administrative fine on a licensee if 1
24 or more of the following exist:

25 (a) Fraud or deceit in obtaining or attempting to obtain a
26 license or certification or in the operation of the licensed
27 health facility or agency.

1 (b) A violation of this article or a rule promulgated under
2 this article.

3 (c) False or misleading advertising.

4 (d) Negligence or failure to exercise due care, including
5 negligent supervision of employees and subordinates.

6 (e) Permitting a license or certificate to be used by an
7 unauthorized health facility or agency.

8 (f) Evidence of abuse regarding a patient's health, welfare,
9 or safety or the denial of a patient's rights.

10 (g) Failure to comply with section ~~10102a(7)~~ **10115**.

11 (h) Failure to comply with part 222 or a term, condition, or
12 stipulation of a certificate of need issued under part 222, or
13 both.

14 (i) A violation of section 20197(1).

15 (2) The department may deny an application for a license or
16 certification based on a finding of a condition or practice that
17 would constitute a violation of this article if the applicant
18 were a licensee.

19 (3) Denial, suspension, or revocation of an individual
20 emergency medical services personnel license under part 209 is
21 governed by section 20958.

22 (4) If the department determines under subsection (1) that a
23 health facility or agency has violated section 20197(1), the
24 department shall impose an administrative fine of \$5,000,000.00
25 on the health facility or agency.

26 Enacting section 1. This amendatory act takes effect May 1,
27 2008.

1 Enacting section 2. This amendatory act does not take effect
2 unless all of the following bills of the 94th Legislature are
3 enacted into law:

4 (a) House Bill No. 4941.

5 (b) House Bill No. 4945.

6 (c) Senate Bill No. 712.

7 (d) Senate Bill No. 713.

8 (e) Senate Bill No. 714.

9 Enacting section 3. Section 10102a of the public health
10 code, 1978 PA 368, MCL 333.10102a, is repealed.