

D R A F T

FOR DISCUSSION ONLY

**REVISED  
UNIFORM ANATOMICAL GIFT ACT**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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MEETING IN ITS ONE-HUNDRED-AND-FOURTEENTH YEAR  
PITTSBURGH, PENNSYLVANIA  
JULY 22 - 29, 2005

**REVISED  
UNIFORM ANATOMICAL GIFT ACT**

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By

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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**REVISED UNIFORM ANATOMICAL GIFT ACT (200\_)**

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1                                   **REVISED UNIFORM ANATOMICAL GIFT ACT (200\_)**

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3                   **SECTION 1. SHORT TITLE.** This [act] may be cited as the Revised Uniform  
4 Anatomical Gift Act (200\_).

5                   **SECTION 2. DEFINITIONS.** As used in this [act]:

6                   (1) “Agent” means an individual authorized by a health-care power of attorney to  
7 make health-care decisions on behalf of the principal or an individual authorized by any other  
8 record to make an anatomical gift on behalf of the principal.

9                   (2) “Anatomical gift” means a donation of all or part of a human body to take  
10 effect upon or after death.

11                   (3) “Decedent” means a deceased individual whose body or part is the source of  
12 an anatomical gift for transplantation, therapy, research, or educational purposes. The term  
13 includes a stillborn infant or fetus.

14                   (4) “Document of gift” means a [donor] card or other record used to make an  
15 anatomical gift. The term includes a will and a statement or symbol attached to or imprinted on a  
16 license to operate a vehicle, identification card issued by a state, or a donor registry.

17                   (5) “Donee” means a person to whom an anatomical gift has been made.

18                   (6) “Donor” means an individual making an anatomical gift of the individual’s  
19 part or body. The term includes a decedent.

20                   (7) “Donor registry” means a registry that provides for the making, amending, or  
21 revoking of an anatomical gift or the refusal to make an anatomical gift.

22                   (8) “Enucleator” means an individual who is qualified and trained by an

1 organization that is [licensed] [accredited] [regulated] [under federal or state law] to remove or  
2 process eyes or parts of eyes.

3 (9) “Eye bank” means a person engaged in the recovery, screening, testing,  
4 processing, storage, or distribution of human eyes or portions of human eyes that is [licensed]  
5 [accredited][regulated] [under federal or state law].

6 (10) “Hospital” means a facility licensed, accredited, or approved as a hospital  
7 under the law of any state or a facility operated as a hospital by the United States government, a  
8 state, or a subdivision of a state.

9 (11) “Organ procurement organization” means a person designated by the  
10 Secretary of Health and Human Services pursuant to the laws of the United States as an organ  
11 procurement organization.

12 (12) “Part” means an organ, eye, or tissue.

13 (13) “Person” means an individual, corporation, business trust, estate, trust,  
14 partnership, association, joint venture, government, or governmental subdivision, agency or  
15 instrumentality, or any other legal or commercial entity.

16 (14) “Physician” means an individual authorized to practice medicine [or  
17 osteopathy] under the law of any state.

18 (15) “Procurement organization” means an eye bank, organ procurement  
19 organization, or tissue bank.

20 (16) “Reasonably available” means able to be contacted without undue effort and  
21 willing and able to act in a timely manner consistent with existing medical criteria necessary for  
22 the making of an anatomical gift.

1 (17) “Recipient” means an individual into whom a decedent’s part has been or is  
2 intended to be transplanted.

3 (18) “Record” means information that is inscribed on a tangible medium or that is  
4 stored in an electronic or other medium and is retrievable in perceivable form.

5 (19) “Sign” means:

6 (A) to execute or adopt a tangible symbol with the present intent to  
7 authenticate a record; or

8 (B) to attach or logically associate an electronic symbol, sound, or process  
9 to or with a record with the present intent to authenticate the record.

10 (20) “State” means a state of the United States, the District of Columbia, Puerto  
11 Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
12 jurisdiction of the United States.

13 (21) “Technician” means an individual who is qualified and trained by an  
14 organization that is [accredited] [licensed] [regulated] [under federal or state law] to remove or  
15 process a body part.

16 (22) “Tissue bank” means a person engaged in the recovery, screening, testing,  
17 processing, storage, or distribution of human tissue that is [licensed] [accredited] [regulated]  
18 [under federal or state law].

19 **SECTION 3. MAKING ANATOMICAL GIFTS.**

20 (a) Subject to Section 6, an anatomical gift of an individual’s body or part for  
21 transplantation, therapy, research, or education may be made by:

22 (1) the individual, if the individual is at least [18] years of age [or an

1 emancipated minor];

2 (2) an agent of the individual unless the power of attorney to make health-  
3 care decisions or other record prohibits the agent from making an anatomical gift;

4 (3) a parent of the individual, if the individual is under the age of [18]  
5 years [and not emancipated]; or

6 (4) the [guardian] of the person of the individual.

7 (b) An anatomical gift may be made by a [donor] card or other record signed by  
8 the person making the gift. If the person cannot sign the [donor] card or other record, the [donor]  
9 card or other record must be signed on the person's behalf by an individual acting at the person's  
10 direction and by two witnesses, both of whom have signed at the request of that individual and  
11 state that it has been so signed.

12 (c) A donor may make an anatomical gift by authorizing the [motor vehicle  
13 department] to imprint on the donor's license to operate a vehicle or state-issued identification  
14 card a statement or symbol indicating that the donor has made an anatomical gift. Revocation,  
15 suspension, expiration, or cancellation of the donor's license or card does not invalidate the  
16 anatomical gift.

17 (d) A donor may make an anatomical gift by authorizing any person who  
18 maintains a donor registry to include on the donor registry a statement or symbol that the donor  
19 has made an anatomical gift.

20 (e) A donor may make an anatomical gift by the donor's will. An anatomical gift  
21 made by a donor's will takes effect upon the donor's death whether or not the will is probated. If  
22 the will is invalidated, the anatomical gift is not invalidated.

1                   **SECTION 4. AMENDING OR REVOKING ANATOMICAL GIFTS.**

2                   (a) Subject to Section 6, a donor or other person authorized to make an  
3 anatomical gift under Section 3 may amend or revoke an anatomical gift, whether or not made by  
4 will, by:

5                               (1) a signed record; or

6                               (2) a later-dated document of gift that revokes or amends a previous  
7 anatomical gift or a portion of a gift either expressly or by inconsistency.

8                   (b) A donor may also amend or revoke an anatomical gift, not made by will, by  
9 any form of communication during a terminal illness or injury addressed to at least two other  
10 individuals who are at least [18] years of age.

11                   (c) A donor who makes an anatomical gift by will may amend or revoke the gift  
12 in the manner provided for amendment or revocation of wills or the manner provided in  
13 subsection (a).

14                   **SECTION 5. REFUSAL TO MAKE ANATOMICAL GIFT.**

15                   (a) An individual may refuse to make an anatomical gift of the individual's body  
16 or any part by a signed record or a statement or symbol attached to or imprinted on a license to  
17 operate a vehicle or an identification card issued by a state or on a donor registry. During the  
18 individual's terminal illness or injury, the refusal may be by any form of communication  
19 addressed to two or more other individuals who are at least [18] years of age.

20                   (b) An individual who has refused to make an anatomical gift may amend or  
21 revoke the refusal in the same manner as provided in subsection (a).

22                   **SECTION 6. PRECLUSIVE EFFECT OF AMENDMENT, REVOCATION, OR**



1     **REFUSAL.**

2             (a) A donor’s anatomical gift or amendment of an anatomical gift or an  
3 individual’s refusal to make an anatomical gift of the individual’s body or a part precludes any  
4 other person from making, amending, or revoking an anatomical gift of the body or that part.

5             (b) A donor’s revocation of an anatomical gift of the donor’s body or any part  
6 under Section 4 does not preclude any other person from making an anatomical gift of the body  
7 or any part.

8             (c) An anatomical gift or an amendment or revocation of an anatomical gift of all  
9 or any part of the donor’s body by a person other than the donor precludes all other persons from  
10 making, amending, or revoking an anatomical gift of the body or that part at a later time under  
11 Section 7.

12            (d) In the absence of contrary indications by the donor or other person authorized  
13 to make an anatomical gift under Section 3:

14                 (1) an anatomical gift of a part is neither a refusal to give other parts nor a  
15 limitation on the making of an anatomical gift of other parts under Section 7, and

16                 (2) a revocation or amendment of an anatomical gift is not a refusal to  
17 make an anatomical gift at a later time.

18            **SECTION 7. MAKING, REVOKING, AND OBJECTING TO ANATOMICAL**  
19 **GIFTS BY OTHERS.**

20            (a) Subject to subsection (c) and except as otherwise provided in Section 6, in the  
21 order of priority listed any member of the following classes of persons who is reasonably  
22 available, or, if there is more than one member of a class listed in subsections (1), (3), (4), (5),

1 (6), (7) or (8), a majority of the members of the class who are reasonably available, may make an  
2 anatomical gift of all or any part of a decedent's body for transplantation, therapy, research, or  
3 education:

4 (1) an individual who was acting as the agent of the decedent at the time  
5 of death;

6 (2) the spouse of the decedent;

7 (3) adult children of the decedent;

8 (4) parents of the decedent;

9 (5) adult siblings of the decedent;

10 (6) adult grandchildren of the decedent;

11 (7) grandparents of the decedent;

12 (8) a person who was acting as the [guardian] of the person of the  
13 decedent at the time of death;

14 (9) an adult who exhibited special care and concern for the decedent and  
15 who is reasonably available to make an anatomical gift on behalf of the decedent; and

16 (10) any other person having the authority to dispose of the decedent's  
17 body.

18 (b) An anatomical gift under subsection (a) may only be made by a document of  
19 gift signed by the person making the gift or that person's telegraphic, recorded telephonic, or  
20 other recorded message or by another form of oral communication that is contemporaneously  
21 reduced to a record and signed by the donee.

22 (c) A person or class of persons listed in subsection (a) may not make an

1 anatomical gift if a person in a prior class is reasonably available at the time of the decedent's  
2 death to make an anatomical gift but has not been given a reasonable opportunity to make or  
3 refuse to make an anatomical gift.

4 (d) Subject to subsection (e), an anatomical gift by a person authorized under  
5 subsection (a) may be revoked by any member of a prior class who is reasonably available. If  
6 there is more than one member of the prior class who is reasonably available, the gift is revoked  
7 if a majority of the members of the class object to the making of the anatomical gift or the  
8 members are equally divided whether to make an anatomical gift.

9 (e) A revocation under subsection (d) is effective only if, before procedures have  
10 begun to remove a part from the decedent's body or surgically prepare the recipient, the donee or  
11 the physician, technician, or enucleator removing the part or preparing the recipient actually  
12 knows of the revocation.

13 (f) For purposes of this section, if a person having priority to make or refuse to  
14 make an anatomical gift is unwilling to make a decision in a reasonably timely manner, the  
15 person is deemed not to be reasonably available.

16 **SECTION 8. COOPERATION BETWEEN [CORONER][MEDICAL**  
17 **EXAMINER] AND PROCUREMENT ORGANIZATIONS AND DONEES.**

18 (a) A [coroner] [medical examiner] and a procurement organization shall  
19 collaborate to maximize the opportunity to recover parts for the purposes of transplantation,  
20 therapy, research, and education.

21 (b) If a [coroner] [medical examiner] receives notice from a procurement  
22 organization that an anatomical gift might be available with respect to a deceased individual

1 whose body is in the jurisdiction of the [coroner][medical examiner] or receives notice from a  
2 donee of an anatomical gift of any part from a decedent in the jurisdiction of the  
3 [coroner][medical examiner], the [coroner][medical examiner] shall conduct an examination,  
4 autopsy, or analysis of those parts in a manner and within a time period compatible with their  
5 preservation for the purposes of the anatomical gift.

6 (c) The [coroner][medical examiner] may review all necessary information,  
7 including medical records, laboratory test results, x-rays, and other diagnostic results in the  
8 possession of any person which the [coroner] [medical examiner] determines may be relevant to  
9 an examination, autopsy, or analysis of the body and parts of a body within the jurisdiction of the  
10 [coroner] [medical examiner] .

11 (d) Any information requested by a [coroner] [medical examiner] pursuant to  
12 subsection (c) must be provided by the person having that information as expeditiously as  
13 possible to allow the [coroner] [medical examiner] to conduct the investigation into the cause of  
14 death and to complete the examination, autopsy, or analysis of the body and parts within a time  
15 period compatible with the preservation of parts for purposes of transplantation, therapy,  
16 research, or education.

17 (e) If an anatomical gift has been made of an organ from a decedent whose body  
18 is within the jurisdiction of a [coroner] [medical examiner] and no autopsy is required, or the  
19 [coroner] [medical examiner] determines that an autopsy is required but that the recovery of the  
20 organ will not interfere with the autopsy, the [coroner] [medical examiner] and the organ  
21 procurement organization shall collaborate in the timely removal of the organ from a decedent  
22 for purposes of transplantation or therapy.

1 (f) If an anatomical gift of an organ from a deceased individual whose body is  
2 within the jurisdiction of a [coroner] [medical examiner] has been or might be made but the  
3 [coroner] [medical examiner] initially believes that the recovery of the organ by the organ  
4 procurement organization could interfere with the investigation into that individual's cause of  
5 death, then the [coroner] [medical examiner] or its designee shall attend the removal procedure  
6 for that organ before making a final determination not to allow the organ procurement  
7 organization to recover the organ for transplantation, therapy, research, or education. At the  
8 removal procedure, the [coroner] [medical examiner] may allow recovery by the organ  
9 procurement organization to proceed, request a biopsy, or deny recovery by the organ  
10 procurement organization if, in the judgment of the [coroner] [medical examiner], the organ  
11 may be involved in the individual's cause of death. The [coroner] [medical examiner] shall  
12 explain in a record the reasons for not allowing the organ procurement organization to recover  
13 the organ and shall include those reasons in the records of the [coroner] [medical examiner] and  
14 provide a copy of the reasons to the organ procurement agency.

15 (g) If, pursuant to subsection (f), a [coroner] [medical examiner] is required to be  
16 present at an autopsy, the organ procurement organization requesting the recovery of the organ  
17 shall reimburse the [coroner] [medical examiner], upon request, for the actual costs incurred in  
18 performing the duty specified in subdivision (f).

19 (h) A [coroner] [medical examiner] shall release, upon request of a procurement  
20 organization, the name, contact information, available medical and social history, and autopsy  
21 results relating to the death of a deceased individual in the [coroner's] [medical examiner's]  
22 jurisdiction if the release will not interfere with an [examination or investigation][autopsy].

1 (i) If an anatomical gift of eyes or tissue has been made, a [coroner] [medical  
2 examiner] shall permit the timely removal of eyes and tissue from a decedent for purposes of  
3 transplantation or therapy by a procurement organization.

4 (j) This section does not authorize the making of an anatomical gift by any  
5 person. No parts may be removed from the body of a deceased individual in the jurisdiction of a  
6 [coroner] [medical examiner] for transplantation, therapy, research, or education unless that part  
7 or body is the subject of an anatomical gift. The body of a deceased individual within the  
8 jurisdiction of the [coroner] [medical examiner] may not be delivered to a donee of the body for  
9 research or education unless the body is the subject of an anatomical gift.

10 **SECTION 9. SEARCH AND NOTIFICATION.**

11 (a) The following persons shall make a reasonable search for a document of gift  
12 or other information identifying an individual as an individual who has made or refused to make  
13 an anatomical gift or on whose behalf an anatomical gift has been made:

14 (1) a law enforcement officer, fireman, paramedic, or other emergency  
15 rescuer finding an individual who the searcher believes is dead or near death; and

16 (2) a hospital, upon the admission of the individual at or near the time of  
17 death, if there is not immediately available any other source of that information.

18 (b) If a document of gift or evidence of refusal to make an anatomical gift is  
19 located by the search required by subsection (a), and the individual or deceased individual to  
20 whom it is related is taken to a hospital, the document or other evidence must be sent to the  
21 hospital by the person who located the document of gift or evidence.

22 (c) A person who fails to discharge the duties imposed by this section is not

1 subject to criminal or civil liability but is subject to administrative sanctions.

2 **SECTION 10. PERSONS WHO MAY BECOME DONEES.**

3 (a) For purposes of this section, “appropriate procurement organization” means a  
4 procurement organization for the part to be used for transplantation or therapy which serves the  
5 geographical area in which the decedent died.

6 (b) The following persons may be designated as donees of anatomical gifts:

7 (1) an individual designated by the person making the anatomical gift if  
8 the anatomical gift is of a part for transplantation or therapy needed by the individual;

9 (2) an appropriate procurement organization selected by the donor; and

10 (3) a hospital, accredited medical or dental school, college, or university  
11 for education, or research or any other person participating in education or research involving the  
12 use of human bodies or parts.

13 (c) If an anatomical gift is made under Section 3 of one or more parts in a  
14 document of gift that does not designate a donee, the donee is the appropriate procurement  
15 organization for each part.

16 (d) If a document of gift made pursuant to Section 3 specifies only a general  
17 intent to make an anatomical gift by such phrases as “organ donor” or “body donor,” decedent’s  
18 parts may only be used for transplantation or therapy. For this purpose the donee is the  
19 appropriate procurement organization for each part.

20 (e) If a donee determined under subsections (b) through (d) is not available to  
21 accept an anatomical gift or rejects the anatomical gift, the donee of the anatomical gift is any  
22 appropriate procurement organization or hospital, accredited medical or dental school, college, or

1 university for education, or research or any other person participating in education or research  
2 involving the use of human bodies or parts.

3 (f) Custody of a decedent's body if there is no donee or of decedent's parts not  
4 used by the donee for transplantation, therapy, research, or education vests in the person under  
5 obligation to dispose of the body.

6 (g) If the donee actually knows of the refusal to make an anatomical gift under  
7 Section 5 or a revocation of an anatomical gift or that an anatomical gift was not effective under  
8 Section 7, the donee may not accept the anatomical gift. For purposes of this subsection, if the  
9 donee actually knows that a document of gift is on a particular donor registry, the donee is  
10 deemed to have actual knowledge of any amendment or revocation of that document of gift or  
11 any refusal to make an anatomical gift that is on the same donor registry.

12 (h) This [act] does not affect the allocation of parts by any person acting under  
13 the authority of federal law relating to the allocation of parts for transplantation.

14 **SECTION 11. DELIVERY OF DOCUMENT OF GIFT.**

15 (a) Delivery of a document of gift during the lifetime of the individual whose  
16 body or part is the subject of the anatomical gift is not required for the validity of an anatomical  
17 gift.

18 (b) Upon or after a decedent's death, any person in possession of a document of  
19 gift or a record evidencing a refusal to make an anatomical gift with respect to the decedent shall  
20 allow any person who is authorized to make or object to the making of an anatomical gift under  
21 this [act] to examine or copy the document of gift.

22 **SECTION 12. RIGHTS AND DUTIES OF PROCUREMENT ORGANIZATIONS**



1 **AND DONEES.**

2 (a) A procurement organization may conduct any reasonable examination  
3 necessary to assure the medical suitability of a part that is the subject of a prospective anatomical  
4 gift for transplantation or therapy after a referral from a hospital.

5 (b) The donee of an anatomical gift may conduct any reasonable examination  
6 necessary to assure the medical or other suitability of the body or part for its intended purposes at  
7 any time after the decedent's death.

8 (c) An examination under subsection (a) or (b) includes an examination of all  
9 medical records of the individual whose body or part is the subject of an anatomical gift or a  
10 prospective anatomical gift.

11 (d) Subject to Section 8, rights of a donee of an anatomical gift are superior to  
12 rights of others. A donee may accept or reject an anatomical gift. If a donee accepts an  
13 anatomical gift of an entire body, the donee, subject to the terms of the gift or to this [act], may  
14 allow embalming and use of the body in funeral services. If the gift is of a part, the donee, upon  
15 the death of the decedent and before embalming, shall cause the part to be removed without  
16 unnecessary mutilation.

17 (e) Neither the physician who attends the decedent at death nor the physician who  
18 determines the time of the decedent's death may participate in the procedures for removing or  
19 transplanting a part.

20 (f) If there has been an anatomical gift, a technician may remove any donated  
21 parts and an enucleator may remove any donated eyes or parts of eyes from the decedent.

22 **SECTION 13. COORDINATION OF PROCUREMENT AND USE.** Each hospital

1 in this state, after consultation with other hospitals and procurement organizations, shall establish  
2 agreements or affiliations for coordination of procurement and use of human bodies and parts.

3 **SECTION 14. SALE OR PURCHASE OF PARTS PROHIBITED.**

4 (a) Except as otherwise provided in subsection (b), if removal of a part from a  
5 decedent is intended to occur after the decedent's death, a person may not knowingly, for  
6 valuable consideration, purchase or sell a part for transplantation or therapy,.

7 (b) A person may make reasonable payment for the removal, processing, disposal,  
8 preservation, quality control, storage, transportation, or implantation of a part.

9 (c) A person who violates this section is guilty of a [felony] and upon conviction  
10 is subject to a fine not exceeding [\$50,000] or imprisonment not exceeding [five] years, or both.

11 **SECTION 15. LIABILITY.**

12 (a) Subject to subsection (c), a person who acts in accordance with this [act] or  
13 with the applicable anatomical gift law of another state [or a foreign country] or attempts in good  
14 faith to do so is not liable for the act in a civil action or criminal proceeding or subject to  
15 discipline for unprofessional conduct.

16 (b) Neither the person making an anatomical gift nor the decedent's estate is  
17 liable for any injury or damage that may result from the making or the use of an anatomical gift.

18 (c) Subsection (a) does not apply to a donee to which a document of gift has been  
19 delivered if the donee has actual knowledge that the anatomical gift has been revoked or  
20 amended or that a refusal to make an anatomical gift was made pursuant to Section 5 and the  
21 donee's actions are inconsistent with the revocation, amendment, or refusal. For this purpose, if  
22 the donee actually knows that a document of gift is on a particular donor registry, the donee is

1 deemed to have actual knowledge of any amendment or revocation of that document of gift or  
2 any refusal to make an anatomical gift that is on the same donor registry.

3 **SECTION 16. CHOICE OF LAW.**

4 (a) A document of gift is valid if executed in accordance with:

5 (1) this [act]

6 (2) the laws of the place where it was executed; or

7 (3) the laws of the place that the person making the anatomical gift was  
8 domiciled, has a place of residence, or was a national at the time the document of gift was  
9 executed.

10 (b) A person may assume that a document of gift is valid unless that person has  
11 actual knowledge that it was not validly executed or was revoked.

12 **SECTION 17. TRANSITIONAL PROVISIONS.** This [act] applies to a document of  
13 gift, revocation, or refusal to make an anatomical gift made before, on, or after [the effective date  
14 of this [act]].

15 **SECTION 18. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
16 applying and construing this uniform act, consideration must be given to the need to promote  
17 uniformity of the law with respect to its subject matter among states that enact it.

18 **SECTION 19. ELECTRONIC RECORDS AND SIGNATURES.** This act modifies,  
19 limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15  
20 U.S.C. Section 7001 et. seq.) but does not modify, limit, or supersede Section 101(a) of that act  
21 (15 U.S. C. Section 7001) or authorize electronic delivery of any of the notices described in  
22 Section 103(b) of that act (15 U.S.C. Section 7003(b)).

1           **SECTION 20. REPEALS.** The following acts and parts of acts are repealed:

2                   (1)

3                   (2)

4                   (3)

5           **SECTION 21. EFFECTIVE DATE.** This [act] takes effect \_\_\_\_\_.