

# HOUSE BILL No. 5670

December 9, 2009, Introduced by Rep. Switalski and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 10121 (MCL 333.10121), as added by 2008 PA 39.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 10121. (1) As used in this section:

2       (a) "Advance health care directive" means a power of attorney  
3       for health care or a record signed or authorized by a prospective  
4       donor containing the prospective donor's direction concerning a  
5       health care decision for the prospective donor. Advance health care  
6       directive includes a durable power of attorney **UNDER THE UNIFORM**  
7       **POWER OF ATTORNEY ACT** and **A** designation of patient advocate under  
8       part 5 of article V of the estates and protected individuals code,  
9       1998 PA 386, MCL ~~700.5501~~**700.5506** to 700.5520.

1 (b) "Declaration" means a record signed by a prospective donor  
2 specifying the circumstances under which a life support system may  
3 be withheld or withdrawn from the prospective donor.

4 (c) "Health care decision" means any decision regarding the  
5 health care of the prospective donor.

6 (2) If a prospective donor has a declaration or advance health  
7 care directive or is enrolled in a hospice program, and the terms  
8 of the declaration, directive, or enrollment and the express or  
9 implied terms of a potential anatomical gift are in conflict with  
10 regard to the administration of measures necessary to ensure the  
11 medical suitability of a body part for transplantation or therapy,  
12 the prospective donor's attending physician, the prospective donor,  
13 and, if appropriate, the hospice medical director shall confer to  
14 resolve the conflict. If the prospective donor is incapable of  
15 resolving the conflict, an agent acting under the prospective  
16 donor's declaration, directive, or hospice enrollment, or, if ~~none~~  
17 **THERE IS NO AGENT** or the agent is not reasonably available, another  
18 person authorized by law other than this part to make health care  
19 decisions on behalf of the prospective donor, shall act for the  
20 donor to resolve the conflict. The authorized parties shall attempt  
21 to resolve the conflict as expeditiously as possible. Authorized  
22 parties may obtain information relevant to the resolution of the  
23 conflict from the appropriate procurement organization and any  
24 other person authorized to make an anatomical gift for the  
25 prospective donor under section 10109. Before resolution of the  
26 conflict, measures necessary to ensure the medical suitability of  
27 the body part are permissible if they are not contraindicated by

1 appropriate end-of-life care as determined by the stated wishes of  
2 the prospective donor, by a written advance health care directive,  
3 or, if appropriate, by the hospice medical director.

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No.\_\_\_\_ (request no. 01651'09) or House Bill No.  
6 5196 of the 95th Legislature is enacted into law.