

**PUBLIC HEALTH CODE (EXCERPT)**

**Act 368 of 1978**

**ARTICLE 10**

**ANATOMICAL GIFTS AND DISPOSITION OF HUMAN BODY PARTS**

**PART 101**

**REVISED UNIFORM ANATOMICAL GIFT LAW**

**333.10101 Short title of part.**

Sec. 10101. This part shall be known and may be cited as the "revised uniform anatomical gift law".

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

**333.10102 Definitions.**

Sec. 10102. As used in this part:

- (a) "Adult" means an individual who is at least 18 years of age.
- (b) "Agent" means an individual who meets 1 or more of the following requirements:
  - (i) Is authorized to make health care decisions on the principal's behalf by a power of attorney for health care.
  - (ii) Is expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.
- (c) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.
- (d) "Body part" means an organ, eye, or tissue of a human being. The term does not include the whole body.
- (e) "Decedent" means a deceased individual whose body or body part is or may be the source of an anatomical gift. The term includes a stillborn infant and, subject to this subdivision and restrictions imposed by law other than this part, a fetus. The term does not include a blastocyst, embryo, or fetus that is the subject of an abortion. As used in this subdivision, "abortion" means that term as defined in section 2803.
- (f) "Disinterested witness" means a witness who is not a spouse, child, parent, sibling, grandchild, grandparent, or guardian of or other adult who exhibited special care and concern for the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under section 10111.
- (g) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver license, identification card, or donor registry.
- (h) "Donor" means an individual whose body or body part is the subject of an anatomical gift.
- (i) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts as provided for in section 10120.
- (j) "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- (k) "Eye" means a human eye or any portion of a human eye.
- (l) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.
- (m) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.
- (n) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.
- (o) "Identification card" means an official state personal identification card issued by the secretary of state under 1972 PA 222, MCL 28.291 to 28.300.
- (p) "Know" means to have actual knowledge.
- (q) "Minor" means an individual who is under 18 years of age.
- (r) "Organ" means a human kidney, liver, heart, lung, pancreas, or intestine or multivisceral organs when transplanted at the same time as an intestine.
- (s) "Organ procurement organization" means a person certified or recertified by the Secretary of the United

States Department of Health and Human Services as a qualified organ procurement organization under 42 USC 273(b).

(t) "Parent" means a parent whose parental rights have not been terminated.

(u) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(v) "Physician" means an individual authorized to practice medicine or osteopathic medicine and surgery under the law of any state.

(w) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(x) "Prospective donor" means an individual who is dead or near death and has been determined by a procurement organization to have a body part that could be medically suitable for transplantation, therapy, research, or education. The term does not include an individual who has made a refusal.

(y) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(z) "Recipient" means an individual into whose body a decedent's body part has been or is intended to be transplanted.

(aa) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(bb) "Refusal" means a record created under section 10107 that expressly refuses to make an anatomical gift of an individual's body or body part.

(cc) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(i) Executes or adopts a tangible symbol.

(ii) Attaches to or logically associates with the record an electronic symbol, sound, or process.

(dd) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(ee) "Technician" means an individual determined to be qualified to remove or process body parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(ff) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(gg) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(hh) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2003, Act 62, Imd. Eff. July 22, 2003;—Am. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 209, Eff. Feb. 13, 2024.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10102a Repealed. 2008, Act 39, Eff. May 1, 2008.**

**Compiler's note:** The repealed section pertained to consenting to gift of all or part of decedent's body.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10103 Applicability of part to anatomical gift.**

Sec. 10103. This part applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10104 Anatomical gift of donor's body or body part; purpose; persons making gift.**

Sec. 10104. Subject to section 10108, an anatomical gift of a donor's body or body part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in the manner provided in section 10105 by any of the following:

(a) The donor, if the donor is an adult or if the donor is a minor and meets 1 or more of the following

requirements:

- (i) Is emancipated.
- (ii) Has been issued a driver license or identification card because the donor is at least 16 years of age.
- (b) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift.
- (c) A parent of the donor, if the donor is an unemancipated minor.
- (d) The donor's guardian.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2003, Act 62, Imd. Eff. July 22, 2003;—Am. 2005, Act 140, Imd. Eff. Sept. 29, 2005;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10105 Donor making anatomical gift; methods; gift by donor card or other record; effect of revocation, suspension, expiration, or cancellation of driver license or identification card upon which anatomical gift is indicated; anatomical gift made by will; effect of probate or invalidation.**

Sec. 10105. (1) A donor may make an anatomical gift by doing any of the following:

- (a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card.
- (b) In a will.
- (c) During a terminal illness or injury of the donor, by any form of communication addressed to at least 2 adults, at least 1 of whom is a disinterested witness. However, the physician who attends the donor during the terminal illness or injury shall not act as a recipient of the communication under this subdivision.
- (d) As provided in subsection (2).
- (e) By completing and filing a donor registry schedule created under section 474 of the income tax act of 1967, 1967 PA 281, MCL 206.474, with the state income tax annual return required under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(2) A donor or other person authorized to make an anatomical gift under section 10104 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and shall meet all of the following requirements:

- (a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.
- (b) State that it has been signed and witnessed as provided in subdivision (a).
- (3) Revocation, suspension, expiration, or cancellation of a driver license or identification card upon which an anatomical gift is indicated does not invalidate the gift.
- (4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 101, Imd. Eff. July 19, 2023.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10106 Amendment or revocation of anatomical gift; means.**

Sec. 10106. (1) Subject to section 10108, a donor or other person authorized to make an anatomical gift under section 10104 may amend or revoke an anatomical gift by any of the following means:

- (a) A record signed by any of the following:
  - (i) The donor.
  - (ii) The other person authorized to make an anatomical gift under section 10104.
  - (iii) Subject to subsection (2), another individual acting at the direction of the donor or the other person authorized to make an anatomical gift under section 10104 if the donor or other person is physically unable to sign.
- (b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- (2) A record signed pursuant to subsection (1)(a)(iii) shall meet all of the following requirements:
  - (a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the donor or the other person.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) Subject to section 10108, a donor or other person authorized to make an anatomical gift under section 10104 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least 2 adults, at least 1 of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1).

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10107 Refusal to make anatomical gift; means.**

Sec. 10107. (1) An individual may refuse to make an anatomical gift of his or her body or body part by any of the following means:

(a) A record signed by either of the following:

(i) The individual.

(ii) Subject to subsection (2), another individual acting at the direction of the individual if the individual is physically unable to sign.

(b) The individual's will, whether or not the will is admitted to probate or invalidated after his or her death.

(c) Any form of communication made by the individual during his or her terminal illness or injury addressed to at least 2 adults, at least 1 of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(ii) shall meet all of the following requirements:

(a) Be witnessed by at least 2 adults, at least 1 of whom is a disinterested witness, who have signed at the request of the individual.

(b) State that it has been signed and witnessed as provided in subdivision (a).

(3) An individual who has made a refusal may amend or revoke the refusal by any of the following means:

(a) In the manner provided in subsection (1) for making a refusal.

(b) By subsequently making an anatomical gift pursuant to section 10105 that is inconsistent with the refusal.

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in section 10108(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of his or her body or body part bars all other persons from making an anatomical gift of the individual's body or body part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10108 Person other than donor barred from making, amending, or revoking anatomical gift; conditions; revocation of anatomical gift not considered as refusal; unrevoked or revocation of anatomical gift by person other than donor; certain conduct not considered as limitation; donor as unemancipated minor.**

Sec. 10108. (1) Except as otherwise provided in subsection (7) and subject to subsection (6), in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or body part if the donor made an anatomical gift of the donor's body or body part under section 10105 or an amendment to an anatomical gift of the donor's body or body part under section 10106.

(2) A donor's revocation of an anatomical gift of the donor's body or body part under section 10106 is not a refusal and does not bar another person specified in section 10104 or 10109 from making an anatomical gift of the donor's body or body part under section 10105 or 10110.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or body part under section 10105 or an amendment to an anatomical gift of the donor's body or body part under section 10106, another person may not make, amend, or revoke the gift of the donor's body or body part under section 10110.

(4) A revocation of an anatomical gift of a donor's body or body part under section 10106 by a person other than the donor does not bar another person from making an anatomical gift of the body or body part under section 10105 or 10110.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 10104, an anatomical gift of a body part is neither a refusal to give another body part nor a limitation on the making of an anatomical gift of another body part at a later time by the donor or other person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 10104, an anatomical gift of a body part for 1 or more of the purposes set forth in section 10104 is not a limitation on the making of an anatomical gift of the body part for any of the other purposes by the donor or any other person under section 10105 or 10110.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or body part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1986, Act 186, Eff. Oct. 7, 1986;—Am. 2006, Act 301, Imd. Eff. July 20, 2006;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10109 Classes of persons making anatomical gift; priority; more than 1 member of class making anatomical gift; availability of person in prior class.**

Sec. 10109. (1) Subject to subsections (2) and (3) and unless barred by section 10107 or 10108, an anatomical gift of a decedent's body or body part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed as follows:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under section 10104(b) immediately before the decedent's death.

(b) The spouse of the decedent.

(c) Adult children of the decedent.

(d) Parents of the decedent.

(e) Adult siblings of the decedent.

(f) Adult grandchildren of the decedent.

(g) Grandparents of the decedent.

(h) An adult who exhibited special care and concern for the decedent.

(i) The persons who were acting as the guardians of the person of the decedent at the time of death.

(j) The persons assigned by the state of Michigan to authorize medical care for the decedent at the time of death, including public ward custodians, correctional or mental health facility personnel, or foster parents.

(k) Any other person that has the authority to dispose of the decedent's body, including unidentified bodies, under section 3206 of the estates and protected individuals code, 1998 PA 386, MCL 700.3206.

(2) If there is more than 1 member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g), or (i) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 10111 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person shall not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10110 Document of gift; amendment or revocation of gift made under MCL 333.10109; revocation effective before incision made or invasive procedures begun.**

Sec. 10110. (1) A person authorized to make an anatomical gift under section 10109 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.



(2) Subject to subsection (3), an anatomical gift by a person authorized under section 10109 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than 1 member of the prior class is reasonably available, the gift made by a person authorized under section 10109 may be amended or revoked as follows:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift.

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

**333.10111 Persons named in document of gift; inability to transplant gift to named individual; person not named in gift document; rules; more than 1 purpose or body part set forth in document of gift; use of gift if general intent specified by certain words; organ procurement organization as custodian of organ; disposal of body part; ineffective gift; allocation of organs for transplantation or therapy.**

Sec. 10111. (1) An anatomical gift may be made to any of the following persons named in the document of gift:

(a) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education.

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

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) cannot be transplanted into the individual, the body part passes pursuant to subsection (7) in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of 1 or more specific body parts or of all body parts is made in a document of gift that does not name a person described in subsection (1) but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the body part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the body part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the body part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) and as otherwise specified in this section, if there is more than 1 purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of 1 or more specific body parts is made in a document of gift that does not name a person described in subsection (1) and does not identify the purpose of the gift, the gift may be used for transplantation, therapy, research, or education pursuant to subsections (4) and (7).

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor", or "body donor" or by a symbol or statement of similar import, the gift may be used for transplantation, therapy, research, or education pursuant to subsections (4) and (7).

(7) For purposes of subsections (2), (5), and (6), the following rules apply:

(a) If the body part is an eye, the gift passes to the appropriate eye bank.

(b) If the body part is tissue, the gift passes to the appropriate tissue bank.

(c) If the body part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b), passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) or the decedent's body or body part is not used for transplantation, therapy, research, or education, custody of the body or body part passes to the person under obligation to dispose of the body or body part.

(10) A person shall not accept an anatomical gift if the person knows that the gift was not effectively made under section 10105 or 10110 or if the person knows that the decedent made a refusal under section 10107 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is considered to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b), nothing in this part affects the allocation of organs for transplantation or therapy.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10112 Search for document of gift or other information; persons required to make search; document to be sent to hospital for documentation; failure to discharge duties; administrative sanctions.**

Sec. 10112. (1) As soon as practical after any necessary medical intervention or treatment, each of the following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) A law enforcement officer, firefighter, paramedic, other emergency rescuer finding the individual, or medical examiner or his or her designee.

(b) If no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall immediately send the document of gift or refusal to the hospital for documentation.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10113 Document of gift; delivery; examination and copying.**

Sec. 10113. (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the decedent shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the decedent or by a person to which the gift could pass under section 10111.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10114 Referral of individual to procurement organization; search of records of secretary of state and donor registry; access to records; examination to ensure medical suitability; search for parents of minor donor; rights of person to which body part passes; participation of physician.**

Sec. 10114. (1) When a hospital refers an individual at or near death to a procurement organization, the procurement organization shall make a reasonable search of the records of the secretary of state and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization shall be allowed reasonable access to information in the records of the secretary of state to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a body part that is or

could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor, regardless of a prior decision to withhold or withdraw care as described in section 10121. During the examination period, measures necessary to ensure the medical suitability of the body part shall not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this part, at any time after a donor's death, the person to which a body part passes under section 10111 may conduct any reasonable examination necessary to ensure the medical suitability of the body or body part for its intended purpose.

(5) Unless prohibited by law other than this part, an examination under subsection (3) or (4) may include an examination of all medical and dental records or other sources of medical information pertaining to the donor or prospective donor, including those held by a medical examiner's office, correctional facility, physician's office, or other medical entity.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows that the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1), a procurement organization shall make a reasonable search for any person listed in section 10109 that has priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to section 10111(9), the rights of the person to which a body part passes under section 10111 are superior to the rights of all others with respect to the body part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this part, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a body part, the person to which the body part passes under section 10111, upon the death of the donor and before embalming, burial, or cremation, shall cause the body part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a body part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10115 Hospital agreements or affiliations with procurement organizations.**

Sec. 10115. Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10116 Purchase or sale of body part for transplantation or therapy; violation as felony; penalty; exception.**

Sec. 10116. (1) Except as otherwise provided in subsection (2), a person that for valuable consideration knowingly purchases or sells a body part for transplantation or therapy if removal of the body part from an individual is intended to occur after the individual's death is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00, or both.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a body part.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10117 Intentionally falsifying, forging, concealing, defacing, or obliterating document of gift; violation as felony; penalty.**



Sec. 10117. A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00, or both.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10118 Good faith acts.**

Sec. 10118. (1) A person that acts in good faith in accord with the terms of this part or with the anatomical gift laws of another state or a foreign country is not liable for damages in any civil or administrative action or subject to prosecution in any criminal proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this part, a person may rely upon representations of an individual listed in section 10109(1)(b), (c), (d), (e), (f), (g), or (h) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10119 Validity of document of gift; execution; presumption.**

Sec. 10119. (1) A document of gift is valid if executed pursuant to any of the following:

(a) This part.

(b) The laws of the state or country where it was executed.

(c) The laws of the state or country where the person making the anatomical gift was domiciled, had a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10120 Donor registry; establishment by organ procurement organization; duties of secretary of state and department of treasury; requirements to be met by donor registry; disclosure of identifiable information; donor registry not established by or under contract with state.**

Sec. 10120. (1) The organ procurement organization may establish or contract for the establishment of a donor registry.

(2) As provided for in section 2 of 1972 PA 222, MCL 28.292, and section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310, the secretary of state shall inquire of each applicant, licensee, or identification card holder, in person or by mail, whether the individual agrees to participate in a donor registry as described in this part. The secretary of state shall maintain a record of an individual who indicates a willingness to have his or her name placed on the donor registry. The secretary of state shall maintain the donor registry in a manner that provides electronic access, including, but not limited to, the transfer of data, to the organ procurement organization or its successor organization, tissue banks, and eye banks. The secretary of state shall administer the donor registry in a manner that complies with subsections (4) and (5).

(3) As provided for in section 474 of the income tax act of 1967, 1967 PA 281, MCL 206.474, the department of treasury shall transmit to the secretary of state the donor registry schedule filed by each individual who indicates a willingness to have the individual's name placed on the donor registry described under subsection (2). The department of treasury shall transmit the information described under this subsection in the manner and frequency determined by the department of treasury and the secretary of state. The secretary of state shall maintain a record of each donor registry schedule received from the department of treasury and add that individual to the donor registry described under subsection (2).

(4) A donor registry under this section must meet all of the following requirements:

(a) Be accessible to a procurement organization to allow it to obtain the name, address, and date of birth of individuals on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made an anatomical gift.

(b) Provide electronic access, including, but not limited to, the transfer of data for purposes of subdivision (a) on a 7-day-a-week, 24-hour-a-day basis at no cost to the procurement organization.

(5) Personally identifiable information on a donor registry about a donor or prospective donor must not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift.

(6) This section does not prohibit any person from creating or maintaining a donor registry that is not established by or under contract with this state. A donor registry that is not established by or under contract with this state shall do all of the following:

(a) Comply with subsections (4) and (5).

(b) Within 30 days of its establishment, notify the organ procurement organization of its establishment.

(c) Within 30 days of its establishment, give the organ procurement organization full access to its records of anatomical gifts and amendments to or revocations of anatomical gifts.

**History:** Add. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 101, Imd. Eff. July 19, 2023.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10121 Definitions; medical suitability of body part; conflict with declaration or advance health care directive or enrollment in hospice program; resolution.**

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

(a) "Advance health care directive" means a power of attorney for health care or a record signed or authorized by a prospective donor containing the prospective donor's direction concerning a health care decision for the prospective donor. Advance health care directive includes a durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

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

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

(2) If a prospective donor has a declaration or advance health care directive or is enrolled in a hospice program, and the terms of the declaration, directive, or enrollment and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a body part for transplantation or therapy, the prospective donor's attending physician, the prospective donor, and, if appropriate, the hospice medical director shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration, directive, or hospice enrollment, or, if there is no agent or the agent is not reasonably available, another person authorized by law other than this part to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The authorized parties shall attempt to resolve the conflict as expeditiously as possible. Authorized parties may obtain information relevant to the resolution of the conflict from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 10109. Before resolution of the conflict, measures necessary to ensure the medical suitability of the body part are permissible if they are not contraindicated by appropriate end-of-life care as determined by the stated wishes of the prospective donor, by a written advance health care directive, or, if appropriate, by the hospice medical director.

**History:** Add. 2008, Act 39, Eff. May 1, 2008;—Am. 2023, Act 189, Eff. Feb. 13, 2024.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10122 Uniformity of law among states.**

Sec. 10122. In applying and construing this part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

### **333.10123 Electronic signatures or electronic delivery of notices.**

Sec. 10123. This part modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 USC 7001 to 7031, but does not modify, limit, or supersede 15 USC 7001(a), or authorize electronic delivery of any of the notices described in 15 USC 7003(b).

**History:** Add. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

**Popular name:** Uniform Anatomical Gift Act

## **PART 102**

### **DISPOSITION OF HUMAN BODY PARTS**

### **333.10201 Definitions.**

Sec. 10201. 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 of human bodies.

(b) "Next of kin" means the spouse of a deceased individual or a person related to a deceased individual within the third degree of consanguinity as determined by the civil law method.

**History:** Add. 1979, Act 32, Imd. Eff. June 19, 1979.

**Popular name:** Act 368

### **333.10202 Removal of cornea; circumstances.**

Sec. 10202. (1) In any case in which an autopsy is to be done by a county medical examiner or a county medical examiner causes an autopsy to be done, the cornea of the deceased person may be removed by a person authorized by the county medical examiner.

(2) Removal under subsection (1) may be made only under the following circumstances:

(a) An autopsy has already been authorized by the county medical examiner.

(b) The county medical examiner does not have knowledge of an objection by the next of kin of the decedent to the removal of the cornea.

(c) The removal of the cornea will not interfere with the course of any subsequent investigation or autopsy or alter post-mortem facial appearance.

**History:** Add. 1979, Act 32, Imd. Eff. June 19, 1979;—Am. 1982, Act 158, Imd. Eff. May 20, 1982.

**Popular name:** Act 368

### **333.10203 Removal of cornea; liability.**

Sec. 10203. The county medical examiner, the assistant county medical examiner, a bank or storage facility, or any person authorized by the county medical examiner to remove the cornea of a deceased person, shall not be liable in a civil action if it is subsequently alleged that authorization for the removal was required of the next of kin.

**History:** Add. 1979, Act 32, Imd. Eff. June 19, 1979.

**Popular name:** Act 368

### **333.10204 Prohibited conduct; felony; permissible practices; definitions; rules.**

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

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

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

(b) An anatomical gift pursuant to part 101, or the acquisition or distribution of bodies or parts by the department pursuant to sections 2652 to 2663.

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

(3) Except as otherwise provided in part 101, only an individual who is 1 of the following may surgically remove a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose:

(a) A physician licensed under article 15.

(b) An individual acting under the delegatory authority and supervision of a physician pursuant to section

16215(2), but not including an individual whose license has been suspended under article 15. This subdivision includes, but is not limited to, an individual described in section 16215(3).

(c) An individual residing in another state and authorized to practice allopathic medicine or osteopathic medicine and surgery in that state who is called into this state by a physician licensed under article 15 and is authorized by a hospital licensed under article 17 to surgically remove 1 or more of the following organs for transport back to the other state:

- (i) A heart.
- (ii) A liver.
- (iii) A lung.
- (iv) A pancreas.
- (v) A kidney.
- (vi) All or part of an intestine.
- (vii) Any other human organ specified by rule promulgated by the department under subsection (6).

(4) An individual who violates subsection (3) is guilty of a felony.

(5) As used in this section:

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

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

(6) The department may promulgate rules to specify human organs in addition to the human organs listed in subsection (3)(c) or (5)(a).

**History:** Add. 1984, Act 390, Eff. Mar. 29, 1985;—Am. 1988, Act 63, Imd. Eff. Mar. 24, 1988;—Am. 1999, Act 60, Eff. Sept. 1, 1999;—Am. 2008, Act 39, Eff. May 1, 2008.

**Popular name:** Act 368

### **333.10205 Surgical removal of human organ for transplant, implant, infusion, injection or other purpose; facilities; exceptions; rules; violation as felony.**

Sec. 10205. (1) Except as otherwise provided in subsections (2) and (3), an individual who surgically removes a human organ for transplantation, implantation, infusion, injection, or any other medical or scientific purpose shall perform the surgery only in 1 of the following facilities:

(a) A hospital licensed under article 17.

(b) A facility approved by the director of the department of licensing and regulatory affairs under subsection (4).

(c) A facility operated by a federally designated organ procurement organization for the state of Michigan.

(2) An individual who surgically removes a human organ consisting of tissue, a cornea, or a whole eye for transplantation, implantation, infusion, injection, or any other medical or scientific purpose shall perform the removal surgery only in 1 of the following facilities or in a hospital or other facility described in subsection (1):

(a) A mortuary that is part of a funeral establishment owned or operated by the holder of a license for the practice of mortuary science issued under article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812.

(b) A morgue or a facility operated by a county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216.

(3) Subsections (1) and (2) do not apply to a licensed allopathic physician or osteopathic physician who performs a biopsy or the routine removal of human tissue from a patient in the physician's private practice office or other health facility licensed under article 17 for the diagnosis or treatment of that patient and not for purposes of transplantation, implantation, infusion, or injection.

(4) The director of the department of licensing and regulatory affairs may promulgate rules to designate 1 or more approved facilities for purposes of subsection (1)(b).

(5) An individual who violates subsection (1) or (2) is guilty of a felony.

**History:** Add. 1999, Act 62, Eff. Sept. 1, 1999;—Am. 2016, Act 71, Imd. Eff. Apr. 5, 2016.

**Compiler's note:** Former MCL 333.10205, which pertained to expiration of part, was repealed by Act 158 of 1982, Imd. Eff. May

**Popular name:** Act 368

**333.10251 Organ transplant services; discrimination against individuals with disability; prohibition; action for injunctive relief; definitions.**

Sec. 10251. (1) In providing health care and other services related to an organ transplant, a health care provider in this state shall not discriminate against an individual who has a disability based solely on the individual's disability. Discriminating against an individual who has a disability based solely on the individual's disability includes, but is not limited to, any of the following:

- (a) Refusing to transplant an organ in the individual based solely on the individual's disability.
- (b) Subject to subsection (2), refusing to transplant an organ in the individual based on an assessment that the individual will be unable, without support, to comply with postransplantation medical requirements because of the individual's disability.
- (c) Refusing to place the individual on an organ transplant waiting list or lowering the individual's priority on that waiting list to receive an organ transplant, based solely on the individual's disability.
- (d) Refusing to provide or diminish the quality of counseling or postoperative treatment for the individual based solely on the individual's disability.
- (2) A health care provider in this state shall consider the support of an individual described under subsection (1) in determining the individual's ability to comply with postransplantation medical requirements.
- (3) An individual with a disability who reasonably believes that a health care provider has violated this section may bring an action for injunctive relief in the appropriate court. The action for injunctive relief must be heard in an expedited manner.
- (4) This section does not limit an individual's rights or remedies otherwise provided by law.
- (5) As used in this section:
  - (a) "Disability" means that term as defined in 42 USC 12102.
  - (b) "Health care provider" means both of the following:
    - (i) An individual licensed, registered, or otherwise authorized to engage in a health profession under article 15.
    - (ii) A health facility or agency licensed under article 17.
  - (c) "Organ" means that term as defined in section 10102.

**History:** Add. 2022, Act 253, Imd. Eff. Dec. 22, 2022.

**Popular name:** Act 368

**333.10301 Peace of mind registry; creation, operation, and maintenance; report; rules; immunity from civil liability; legal weight and validity; definitions.**

Sec. 10301. (1) The department may create, operate, and maintain the peace of mind registry, which must contain the directives of voluntary registrants who are residents of this state. The peace of mind registry must be created, operated, and maintained as provided in this act.

(2) The department may by contract delegate the creation, operation, and maintenance of a peace of mind registry to a peace of mind registry organization contingent on the peace of mind registry organization incurring all of the cost related to design, maintain, and operate the registry.

(3) Both of the following conditions apply to a directive:

(a) A directive may be submittable through the United States mail, or through uploaded portable document format (PDF) or another secure electronic format as determined by the department.

(b) A directive must contain a signature line for the registrant.

(4) The peace of mind registry must meet all of the following requirements:

(a) Be accessible to registrants, health care providers, and the department by way of a designated user identification and password.

(b) Store all an individual's directive. However, the most recently signed directive supersedes any earlier directive.

(c) Provide electronic access to stored directives on a continuous basis at no cost to the health care providers and allow health care providers to transmit directives into their respective electronic medical records.

(d) Provide electronic storage and access to directives submitted at no cost to the registrant.

(e) Include a unique identifier-searchable database, including, but not limited to, the last 4 digits of an individual's Social Security number and the individual's date of birth and address.

(5) The department and the secretary of state shall each provide on its public website information on directives and the peace of mind registry. The department and the secretary of state shall promote public



awareness of the advantages of creating directives and the availability of the registry.

(6) The peace of mind registry must satisfy all of the following conditions to the satisfaction of the department:

(a) Maintain a record of each individual who files a directive to be stored in the peace of mind registry and make the record available to the department.

(b) Create and provide forms for the registration of a directive.

(c) Create and provide forms for the revocation of a directive.

(7) The department and the peace of mind registry organization shall ensure the privacy and security of all documents and information submitted to, transmitted from, or stored in the peace of mind registry. The department and any person who accesses the peace of mind registry shall comply with all other provisions of this act and any other law of this state or federal law establishing privacy and security standards applicable to health or other personal identifying information.

(8) Information in the peace of mind registry must not be accessed or used for any purpose unrelated to decision making for health care or disposition of human remains, except that the information may be used solely by the department or its designee for statistical or analytical purposes if the individual's identity is not revealed and all personal identifying information remains confidential.

(9) The department or its designee shall provide both of the following to an individual who files a directive with the peace of mind registry to be stored in the registry:

(a) A wallet-sized card indicating that the holder has a directive in the registry.

(b) An electronic mail message or postcard indicating confirmation of the registration of a directive.

(10) By January 31 of each year, the department or peace of mind organization, as applicable, shall report to the standing committees of the house of representatives and senate on health policy stating the total number of current and new registrants who have submitted directives during the preceding calendar year.

(11) The department may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation and administration of this section.

(12) A peace of mind registry organization, with which the department has contracted under subsection (2), and its employees are immune from civil liability arising from the accuracy or content of the registry, except for willful negligence or gross negligence.

(13) A directive that was filed with and stored in the peace of mind registry is not considered to be of greater legal weight or validity solely by virtue of that filing and storage.

(14) As used in this section:

(a) "Department" means the department of health and human services.

(b) "Directive" means a document that is registered or filed with the peace of mind registry as provided in this act and that is either of the following:

(i) A durable power of attorney under the uniform power of attorney act and a designation of patient advocate under part 5 of article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5520.

(ii) A signed or authorized record concerning an anatomical gift containing a donor's direction concerning a health care decision for the donor under the revised uniform anatomical gift law, sections 10101 to 10123.

(c) "Health care provider" means any of the following:

(i) A health professional licensed, registered, or otherwise authorized to engage in a health profession under part 170, 172, or 175, or a law of another state substantially similar to part 170, 172, or 175.

(ii) A health facility or agency licensed or certified under article 17 or a law of another state substantially similar to article 17.

(d) "Peace of mind registry" or "registry" means an internet website containing access to directives as provided under this act.

(e) "Peace of mind registry organization" means an organization certified or recertified by the secretary of the United States Department of Health and Human Services as a qualified organ procurement organization under 42 USC 273(b), or its successor organization.

(f) "Sign" means that, with the present intent to authenticate or adopt a record, an individual does either of the following:

(i) Executes or adopts a tangible symbol.

(ii) Attaches to or logically associates with the record an electronic symbol, sound, or process.

**History:** Add. 2012, Act 179, Imd. Eff. June 19, 2012;—Am. 2023, Act 189, Eff. Feb. 13, 2024.

**Popular name:** Act 368

### **333.11101 Prohibited donation or sale of blood or blood products; notice of violation.**

Sec. 11101. An individual shall not donate or sell his or her blood or blood products to a blood bank or

storage facility or to an agency or organization that collects blood or blood products for a blood bank or storage facility knowing that he or she has tested positive for the presence of HIV or an antibody to HIV. A blood bank or other health facility to which blood or blood products is donated in violation of this section immediately shall notify the local health department of the violation. The local health facility will immediately proceed under part 52.

**History:** Add. 1988, Act 487, Eff. July 1, 1989.

**Popular name:** Act 368